

1 BOARDS AND COMMISSIONS

2 Kentucky Board of Veterinary Examiners

3 (Amended After Comments)

4 201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists.

5 RELATES TO: KRS 321.200(1)(p), 321.207, 321.208, 321.235

6 STATUTORY AUTHORITY: KRS 321.207, 321.208, 321.235(1)(c)~~[321.235(3)]~~,

7 321.320~~[321.240(5)]~~

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) authorizes the Kentucky

9 Board of Veterinary Examiners to permit qualified animal control agencies in the

10 Commonwealth of Kentucky to apply for a registration certificate from the United States Drug

11 Enforcement Administration (DEA) to purchase, manage, and utilize the specific drugs approved

12 by the board for the purpose of euthanizing~~[euthanize]~~ animals. KRS 321.207(4)~~[321.207(3)]~~

13 authorizes the board to issue certificates to those persons who are deemed to be qualified to work

14 as animal euthanasia specialists. KRS 321.235(1)(c)~~[321.240(5)]~~ authorizes the board to

15 promulgate administrative regulations as it may deem necessary and proper to effectively carry

16 out and enforce the provisions of KRS Chapter 321, including regulations to establish authorized

17 fees. This administrative regulation establishes fees for animal control agencies and animal

18 euthanasia specialists.

19 Section 1. Payment and Submission of Fees.

1 (1) Fees to the board shall be paid by check or money order, or, if available, online
2 payment by debit or credit card. Checks and money orders shall be made payable to the
3 Kentucky State Treasurer.

4 (2) All fees shall be nonrefundable.

5 Section 2. Application Fees.

6 (1) The application fee for issuance of a board certificate authorizing an animal control
7 agency to apply for a restricted controlled substance registration with the United States Drug
8 Enforcement Administration (DEA) shall be ~~\$300~~~~[fifty (50) dollars]~~. The fee shall be attached
9 to the completed Application for Certification as an Animal Control Agency form as found in
10 201 KAR 16:550 or online equivalent form, including all required attachments. The animal
11 control agency shall undergo inspection by an authorized representative of the board in
12 accordance with 201 KAR 16:550, Section 1(3) prior to the issuance of a certificate.

13 (2) The application fee for a certified animal euthanasia specialist shall be fifty (50)
14 dollars. The fee shall be attached to the completed Application for Certification as an Animal
15 Euthanasia Specialist form as found in 201 KAR 16:560 or online equivalent form, including
16 all required attachments.

17 Section 3. Renewal Fees for Animal Control Agencies.

18 (1) **The renewal deadline shall be March 1 of each year. The renewal period is the**
19 **time period beginning the day after the renewal deadline to the next renewal deadline.**

20 ~~(2)~~~~(a)~~ Except as provided by **subsection (4)**~~[paragraph (b)]~~ of this **section**
21 ~~[subsection]~~, a certified animal control agency shall annually~~[, on or before March 1,]~~ pay to
22 the board a renewal fee **as established in paragraphs (a)-(c)** ~~[of]~~ ~~[\$300]~~~~[fifty (50) dollars]~~
23 for the renewal of the certificate.

1 (a) Until June 29, 2026, the renewal fee shall be \$90.

2 (b) Between June 30, 2026, and June 30, 2028, the renewal fee shall be \$115.

3 (c) After June 30, 2028, the renewal fee shall be \$150.

4 (3) The animal control agency shall submit the complete Renewal Application for
5 Animal Control Agencies form as found in 201 KAR 16:572 or online equivalent form,
6 including all required attachments, and fee payment to the board.

7 (4)~~(b)~~ The renewal fee for the first renewal shall be waived for a certificate issued
8 120 days prior to the end of the renewal period.

9 (5)~~(2)~~ **Utilization of Renewal Grace Period.**

10 (a) A sixty (60) day grace period shall be allowed after March 1, during which time the
11 animal control agency may continue to function as though certified until a late renewal
12 application is submitted to the board.

13 (b) The late fee for renewal shall be seventy-five (75) dollars ~~[\$100]~~~~[ten (10) dollars]~~
14 in addition to the renewal fee as described in Section 3(2)~~[Section 3(1)]~~ of this administrative
15 regulation. **The late fee for renewal, if applicable, shall not be reduced or waived without**
16 **board authorization.**

17 (c) The animal control agency shall submit the complete Renewal Application for
18 Animal Control Agencies form as found in 201 KAR 16:572 or online equivalent form,
19 including all required attachments, and fee payment, to the board between March 2 and April
20 30 of the grace ~~[annual-renewal]~~ period. ~~[The late fee for renewal, if applicable, shall not~~
21 ~~be reduced or waived without board authorization.]~~

1 ~~(6)~~~~(3)~~ An animal control agency restricted controlled substance registration certificate
2 shall expire if no renewal package, and late fee if applicable, is paid to the board annually by
3 April 30.

4 ~~(7)~~~~(4)~~ If not more than five (5) years have elapsed since the last date of certificate
5 expiration, an animal control agency that has an expired restricted controlled substance
6 registration certificate may be reinstated upon the submission of a completed Reinstatement
7 Application for Animal Control Agencies form as found in 201 KAR 16:550 or online
8 equivalent form, including all attachments, and the payment of a reinstatement fee of
9 ~~\$300~~~~[\$600]~~~~[seventy five (75) dollars]~~. The animal control agency shall undergo inspection by
10 an authorized representative of the board in accordance with 201 KAR 16:550, **Section**
11 **5**~~[Section 1(3)]~~ prior to the reinstatement of a certificate. An animal control agency shall not
12 apply for a new certificate during this five (5) year window; a reinstatement application shall be
13 required.

14 ~~(8)~~~~(5)~~ If more than five (5) years have elapsed since the last date of certificate
15 expiration, an animal control agency shall reapply to obtain a board certificate authorizing
16 restricted controlled substance registration with the DEA.

17 Section 4. Renewal Fees for Animal Euthanasia Specialists.

18 (1) **The renewal deadline shall be March 1 of each year. The renewal period is the**
19 **time period beginning the day after the renewal deadline to the next renewal deadline.**

20 (a) Except as provided by paragraph (b) of this subsection, a certified animal
21 euthanasia specialist shall annually, on or before March 1, pay to the board a renewal fee of
22 fifty (50) dollars for the renewal of the certificate. The animal euthanasia specialist shall
23 submit the complete Renewal Application for Animal Euthanasia Specialists form as found in

1 201 KAR 16:572 or online equivalent form, including all required attachments, and fee
2 payment to the board.

3 (b) The renewal fee for the first renewal shall be waived for a certificate issued 120
4 days prior to the end of the renewal period.

5 (2) A sixty (60) day grace period shall be allowed after March 1, during which time the
6 certified animal euthanasia specialist may continue to function as though certified until a late
7 renewal application is submitted to the board. The late fee for renewal shall be fifty (50)~~ten~~
8 ~~(40)~~ dollars in addition to the renewal fee as described in Section 4(1) of this administrative
9 regulation. The animal euthanasia specialist shall submit the complete Renewal Application for
10 Animal Euthanasia Specialists form as found in 201 KAR 16:572 or online equivalent form,
11 including all required attachments and fee payments, to the board between March 2 and April
12 30 of the renewal period. The late fee for renewal, if applicable, shall not be reduced without
13 board authorization.

14 (3) An animal euthanasia specialist certificate shall expire if no renewal package, and
15 late fee if applicable, is paid to the board annually by April 30.

16 (4) If not more than five (5) years have elapsed since the last date of certificate
17 expiration, an animal euthanasia certificate that has expired may be reinstated upon the
18 submission of a completed Reinstatement Application for Animal Euthanasia Specialists form
19 as found in 201 KAR 16:560 or online equivalent form, including all attachments, and the
20 payment of a reinstatement fee of seventy-five (75) dollars. An animal euthanasia specialist
21 shall not apply for a new certificate during this five (5) year window; a reinstatement
22 application shall be required.

1 (5) If more than five (5) years have elapsed since the last date of certificate expiration,
2 an individual shall reapply to obtain a certificate as an animal euthanasia specialist in the
3 Commonwealth of Kentucky.

4 Section 5. Inactive Status for Animal Euthanasia Specialists.

5 (1)

6 (a) A certified animal euthanasia specialist may request or be moved to inactive
7 licensure status in accordance with 201 KAR 16:580. There shall not be a fee.

8 (b) There shall not be a renewal fee for a certified animal euthanasia specialist with
9 inactive licensure status.

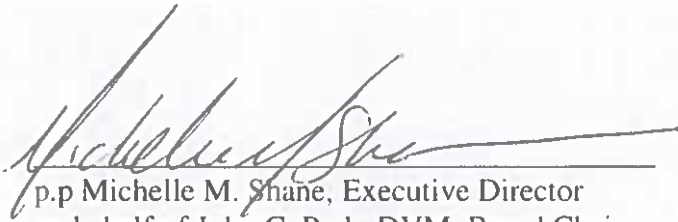
10 (2)

11 (a) A certified animal euthanasia specialist ~~shall~~**[may]** reinstate ~~their~~**[his or her]**
12 certificate to active status in accordance with 201 KAR 16:580.

13 (b) There shall be a reinstatement fee of fifty (50) dollars only if the certificate was
14 placed in inactive status as a result of:

15 1. The certificate holder's request; or

16 2. By severing employment with the affiliated animal control agency on record with
17 the board.



p.p Michelle M. Shane, Executive Director
on behalf of John C. Park, DVM, Board Chair
Kentucky Board of Veterinary Examiners

11/13/2023
Date

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane, Executive Director
Phone: 502-782-0273
Email: michelle.shane@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the fees for animal shelters seeking an animal control agency certificate from the Kentucky Board of Veterinary Examiners (KBVE) to obtain a controlled substance registration from DEA, and for persons seeking an animal euthanasia specialist certificate from the board to gain the ability to euthanasia stray, homeless, and injured animals in Kentucky in an effort to control the pet population in counties and municipalities.

(b) The necessity of this administrative regulation:

This regulation is necessary to establish the fees that the Kentucky Board of Veterinary Examiners (KBVE) approves for certificate holders of animal control agencies and animal euthanasia specialists, as mandated in KRS 321.207, 321.208, 321.235(1)(c), 321.320,.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 321.235 mandates that the board administer and enforce KRS Chapter 321. KRS 321.207, 321.208, and 321.235(1)(c) specifically require the board to charge application, examination, renewal, late, reinstatement, inactive status, and retirement fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation will assist in effective administration by clearly expressing what fees have been approved by the board in order to keep all mandated board programs operational and responsive to constituent needs.

(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:

Updating statutory references to conform with the new Kentucky Veterinary Medicine Practice Act, KRS Chapter 321; updating fees which have only minimally changed in nearly 30 years to ensure that the board remains operational, efficient, and responsive

to both the public and licensee needs. These changes also enable the board to implement new programs as mandated by the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(b) The necessity of the amendment to this administrative regulation:

Changes are necessary to conform with the new Kentucky Veterinary Medicine Practice Act, KRS Chapter 321. The Kentucky Board of Veterinary Examiners has determined this amendment is necessary keep all mandated board programs operational, and ensure adequate staffing levels to keep the board responsive to the needs of the public and credential holders. Costs for the board have increased, and it is necessary to raise fees to continue operations. These changes also enable the board to implement new programs as mandated by the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 321.235 mandates that the board administer and enforce KRS Chapter 321. KRS 321.207, 321.208, and 321.235(1)(c) specifically require the board to charge application, examination, renewal, late, reinstatement, inactive status, and retirement fees.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment shall ensure transparency about the fees associated with applications for certification as an animal control agency and as an animal euthanasia specialist.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

50 animal control agencies, 230 animal euthanasia specialists, and future applicants.

(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:

Applicants will be required to have paid the fee prior to certification, renewal, or reinstatement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No costs are associated with compliance, as this is a prerequisite for application and renewal

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Administrative ease of clear communications of the fees associated with licensure.

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

(a) Initially: The KBVE expects costs for all board operations to be approximately \$575,000 annually in the near term.

(b) On a continuing basis: The board expects costs for all board operations to be approximately \$750,000 annually in the future as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Fees for the KBVE come from license and certification fees established in this filing and the other fee filings. The board does not receive any general funds.

(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:

There is no anticipation of an increase in fees or needed funding to implement this administrative regulation, as the KBVE is already running an administrative program to process applications and an inspection program to ensure compliance.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

Fees are established directly.

(9) TIERING: Is tiering applied? (Explain why or why not)

No. All regulated entities have the same requirements.

FISCAL NOTE

Contact Person: Michelle Shane, Executive Director
Phone: 502-782-0273
Email: michelle.shane@ky.gov

- (1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Board of Veterinary Examiners (KBVE), and Kentucky counties and municipalities who own or contract with a KBVE-certified animal control agency and the employees of such certified agencies that are certified to euthanize animals.

- (2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 321.207, 321.208, 321.235(1)(c), 321.320

- (3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

- (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This filing will generate approximately \$25,000 on an annual basis.

- (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This filing will generate approximately \$25,000 on an annual basis.

- (c) How much will it cost to administer this program for the first year?

This is not a new program. The KBVE expects costs for all board operations to be approximately \$575,000 annually in the near term.

- (d) How much will it cost to administer this program for subsequent years?

The board expects costs for all board operations to be approximately \$750,000 annually in the future as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): +\$25,000 annually

Expenditures (+/-): -\$750,000 annually

Other Explanation: Additional expenses are anticipated by the KBVE

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

There will be no cost savings; this amendment simply codifies the requirements, making them easily accessible for regulated entities.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

There will be no cost savings.

(c) How much will it cost the regulated entities for the first year?

There will be additional costs involved to apply for a new animal control agency certificate, as well as the cost to renew or reinstate the certificate and the cost of late fees. KBVE fees have only minimally changed in the past 30 years; the increase in fees is to ensure that the board remains operational, efficient, and responsive to both the public and licensee needs, while also implementing new programs as mandated by the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321. Costs for the board have increased, and it is necessary to raise fees to continue operations.

(d) How much will it cost the regulated entities for subsequent years?

The costs established in this regulation will be consistent in subsequent years. KBVE fees have only minimally changed in the past 30 years; the increase in fees is to ensure that the board remains operational, efficient, and responsive to both the public and licensee needs, while also implementing new programs as mandated by the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321. Costs for the board have increased, and it is necessary to raise fees to continue operations.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-): None.

Expenditures (+/-): -\$750,000 annually

Other Explanation: Additional expenses are anticipated by the KBVE

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]*

This amendment shall not have a "major economic impact", as defined in KRS 13A.010(13).

STATEMENT OF CONSIDERATION

Relating to 201 KAR 16:514

Kentucky Board of Veterinary Examiners
(Amended After Comments)

I. The public hearing on 201 KAR 16:510, 201 KAR 16:512, 201 KAR 16:514, and 201 KAR 16:516, scheduled for October 24, 2023, at 1:00 p.m. at the Office of the State Veterinarian, 107 Corporate Drive, Frankfort, KY 40601, was held, and written comments were received during the public comment period.

II. The following people either attended the hearing, submitted written comments, or both:

Name and Title	Agency / Organization / Entity / Other
James C. Allen, DVM	Locum veterinarian (Science Hill, KY)
James Beckman, DVM	Gas Light Equine (Westport, KY)
Mark Brengelman, Attorney and Legal Counsel for the Board	Kentucky Board of Veterinary Examiners (KBVE) (Frankfort, KY)
Ashley Book, Director	Louisville Metro Animal Services (Louisville, KY)
Amanda C. Briggs	KBVE Board Staff (Frankfort, KY)
Jason A. Burcham, DVM	Tri Point Veterinary Clinic (Hebron, KY)
Johanna Choate, DVM	Choate Veterinary Services (Almo, KY)
Thomas M. Dorman	KBVE Board Member (Frankfort, KY)
Dale R. Eckert, DVM	KBVE Board Member (Versailles, KY)
Tim R. Gardner, DVM	KBVE Board Member (Scottsville, KY)
Brandy Glaza, Hospital Manager	Licking Valley Veterinary Services (Butler, KY)
Nathan Glaza, DVM	Licking Valley Veterinary Services (Butler, KY)
Linda K. Grimes, DVM, on behalf of the ACAB	Animal Control Advisory Board (Frankfort, KY)
Debra Hamelback, Executive Director on behalf of Members of the KVMA Board	Kentucky Veterinary Medical Association (KVMA) (statewide)
Robert B. "Chip" Harkins, LVT, and on behalf of KVTA	Crescent Hill Animal Hospital (Louisville, KY) and Kentucky Veterinary Technician Association (KVTA) (statewide)
John A. Keith, DVM, MBA, MEcon	Crossroads Veterinary Clinic, LLC (Versailles, KY)
Mike McNutt, AES, and on behalf of KACCA	Hardin County Animal Control (Elizabethtown, KY), and Kentucky Animal Care and Control Association (KACCA) (statewide)
John C. Park, DVM	KBVE Chairman (Lexington, KY)

Jen Quammen, DVM
Stephanie W. Raispis, DVM
Michelle Shane, Executive Director
Debra K. Shoulders, DVM
Tammy T. Smith, DVM
Jon M. Todd, DVM
R. Steven Velasco, III, DVM

Locum veterinarian (Walton, KY)
Wilderness Trace Vet Clinic (Junction City, KY)
KBVE Board Staff (Frankfort, KY)
House Calls for Paws & Claws (Bowling Green, KY)
Knox County Veterinary Services (Barbourville, KY)
Logan County Animal Clinic (Russellville, KY)
Kentucky State Veterinarian (statewide), and KBVE
Board Member as proxy for the KDA Commissioner
of Agriculture (Versailles, KY)
Luna Veterinary Services (Mayfield, KY)

Laura E. Williams, DVM

III. The following people from the promulgating administrative body responded to the written comments:

Name and Title

John C. Park, DVM, Chairman of the Board
Gene Smith, DVM, Vice Chair of the Board
Dianne J. Dawes-Torres, DVM, Board Member
Thomas M. Dorman, Citizen-at-Large, Board Member
Dale R. Eckert, DVM, Board Member
Tim R. Gardner, DVM, Board Member
Stephanie M. Kennedy, DVM, Board Member
Amy J. Staton, EdD, LVT, Board Member
Steven J. Wills, DVM, Board Member
Michelle M. Shane, Executive Director
Mark R. Brengelman, Attorney and Legal Counsel for the Board

IV. Summary of Comments and Responses

(1) Subject Matter: General Comment – Proposed fee increases are too much – what does the board even need all that money for anyway?

(a) Comment: KVMA, Dr. Beckman, Dr. Raispis, Dr. Smith – The commentors requested information to see how the fee increases were calculated. One commentor asked, “Is there is fiscal budget for the board?... Does the board employee [sic] more than one person?” Multiple commentors stated that the Board should only have enough money to cover expenses. One commentor stated the increase in fees is more like a punishment for not getting information to the board on time. One commentor called for an audit of the Board. Another commentor asked if the fee increases needed to be so high given that new revenue streams were also coming online with the new programs (e.g., veterinary facility registrations, animal allied health professional permits, etc.) due to the 2023 modernization Kentucky Veterinary Medicine Practice Act.

(b) Response: The Kentucky Board of Veterinary Examiners (KBVE) responded to commentors as the comments were received, supplying information on the government’s biennial budgetary planning process, KBVE contracts and obligations, overhead costs, IT costs, revenue

and expenditure reports, salary data, as well as future board needs related to staffing, database upgrades, digitization of files, and historical fee increases, etc., to anyone who requested additional information. Moreover, some Members of the KBVE held a special meeting with the leadership of the Kentucky Veterinary Medical Association (KVMA) on August 31, 2023 by Zoom in order to walk through the budget process and answer any questions they had related to the KBVE's budget and projections, both long and short term. Commentors seemed satisfied when the information was presented, yet the KBVE notes that no profession is ever happy about an increase in fees.

As to historical fee increases, it should be noted that renewal fees for veterinarians in Kentucky have not increased since 2010 when the fees were raised 100% (from \$50 to \$100), and before that in 1990 when fees were raised 100% (from \$25 to \$50). For licensed veterinary technicians (LVTs), fees for renewal have been set at \$30 since 1992. For KBVE certified animal euthanasia specialists (AESs) and animal control agencies (ACAs), the fee for renewal has been set at \$50 since 2003. Since that time, not only has the Kentucky economy evolved substantially, but the state has also weathered recessions and inflation, all while the KBVE's contractual obligations related to overhead and required services have increased significantly. KBVE acknowledges its own failure to address appropriate and incremental fee increases under past leadership.

As part of the budgetary planning process and research into increased fees, KBVE reviewed national data from other veterinary licensing boards that had similar considerations and expenditures as the Kentucky board, as well as other medical boards within the Commonwealth. KBVE stresses that it is not appropriate to look at fees alone in other states for a cost comparison. Instead, it is necessary to also consider if those other state boards are merged or independent entities (i.e., shared costs with other agencies vs. all costs shouldered by an independent agency), how many programs or license types are administered, how many licensees exist to share costs, how frequently renewal costs are assessed, the different staffing and other contractual relationships, etc. The budgetary planning process is multifactorial.

In summary of the budget, the KBVE is an independent medical board with only two (2) full-time staff. KBVE maintains eight (8) contracts for needed administrative services, including office space, staff and services for HR, Budget, and IT, as well as website design and maintenance, contractors for investigative services, legal counsel, euthanasia-by-injection course offerings, and separate agreements for a licensure database and its required maintenance and upgrades, etc. Running and maintaining an agency is not inexpensive. KBVE is currently allotted \$525,000 in expenditures annually, with all expenditures coming from revenue generated by licensing fees. With the passage of the modernized Kentucky Veterinary Medicine Practice Act (KRS Chapter 321, effective June 29, 2023), there will be an increase in programming offered by the Board, bringing on four (4) new programs that will cost additional revenue to operate, as well as large investments in database upgrades to accommodate the digitization of the new programs and additional staff.

One of the primary budgetary issues to solve is the fact that KBVE does not have an even revenue stream; this has made communications about KBVE's bottom line challenging. A bottom line is not a budget. The bulk of KBVE's revenue comes during fiscal years (F.Y.s) ending in odd numbers. In F.Y.s ending in even numbers, KBVE revenue is only approximately

\$80,000: this is far less than the appropriation needed to administer the Board's annual expenses. Therefore, KBVE carries forward a large reserve balance to accommodate for lack of revenue in even F.Y.s, and to reserve money for legal expenses, capital upgrades, and other administrative needs.

Historically, pursuant to KRS 321.240(5) prior to modernization, "Fees may not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of this chapter" In the modernized law, pursuant to KRS 321.234(1)(c), "Fees may not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of this chapter, including costs related to administration; overhead; staffing; information technology; investigations; inspections; administrative procedures; court costs; supplies; equipment; travel; educational awards; reserve funds for capital, operational, and programmatic expenses; and education and outreach efforts". Further, pursuant to KRS 321.320(4), the board shall keep and maintain a reserve fund for capital, operational, and programmatic expenses.

Current expenditures of the board exceed revenue and are consuming the little reserve the KBVE has in its accounts. Raising fees is necessary so that KBVE may hire and retain enough staff to operate all programming mandated by the General Assembly, and so the agency does not end up in the red in the next biennium.

In response to this comment, KBVE determined to phase in fee increases so that licensees will be better able to manage the increases and not be caused undue stress. Additionally, KBVE is offering changes to the proposed administrative regulation amendment to ensure that future regulatory reviews by the KBVE shall cause any future fee increases to be planned incrementally.

(2) Subject Matter: General Comment – KBVE's need for increased salaries and staff

(a) Comment: Dr. Beckman, Dr. Smith – The commentors stated that the explanations for a fee increase included the need for additional staff and an increase in salary for the executive director for retention purposes. One commentor stated, "Kentucky salaries and income in any sector of veterinary medicine has historically been lower than national averages. That's accepted when we choose to live and work in Kentucky and should be considered along with cost of living. It was also my understanding that the facility registration program would pay for itself via the fees charged to the facility. Are our licensing fee increases being influenced by this program?"

(b) Response: The salary of the KBVE staff does not fall within the practice of veterinary medicine. The Board's staff are civil servants and employees of the Commonwealth of Kentucky, salaries that are not appropriately comparable to the veterinary medical professions. The KBVE conducted a salary analysis which included executive directors from all other U.S. jurisdictional licensing boards for veterinary medicine, as well as salaries for executive directors for other independent licensing boards in Kentucky, most of which are medical boards. KBVE examined the raw data from the 2022 Member Board profile survey published by the American Association of Veterinary State Boards (AAVSB). During a budget analysis of this data for the 20 other independent licensing boards, including factors like number of licensees, number of agency employees, annual budget, and salary point for executive directors, KBVE discovered that the Board's executive director pay is among the lowest in the nation. While salaries in

Kentucky overall are acknowledged to be somewhat lower than in other areas of the United States, KBVE employees are still underpaid for their profession in this state. In comparison to 16 other independent Kentucky professional licensing boards, KBVE's executive director pay is among the lowest in the commonwealth. Despite a lesser compensation package, KBVE's current executive director has assisted the Board with a successful and complete update to the Kentucky Veterinary Medicine Practice Act in 2023, something that has not been accomplished in nearly 40 years. Additionally, the executive director helped the Board navigate updates to all KBVE administrative regulations, including a complete modernization in 2020 as well as the current initiative underway comprising updates as a result of the passage of 23 RS HB 167, both for the current suite of regulations and regulation development and stakeholder work for four (4) new programs. KBVE would like to retain this director for the Board and benefit of the professions it governs.

Further, the forthcoming facility registration fees were used in calculations of revenue and expenditures projections over the next several bienniums. In order to keep proposed facility registration fees low and to honor discussions held during negotiations with the KVMA during the revisions to the Practice Act, the KBVE adjusted fees for all credentials as needed to collectively fund the agency for all its mandated programming.

In response to this comment, KBVE declined to make changes to the proposed administrative regulation amendment.

(3) Subject Matter: General comment – inflation rates, other tax burden, and licensing fee increases all at once

(a) Comment: KVMA, Dr. Beckman, Dr. Choate, Dr. Glaza, Ms. Hamelback, Ms. Hamilton, Mr. Harkins, Dr. Smith, Dr. Williams – The commentors stated, the initial proposed fees appear to be a doubling, and that this is too much of an increase in too short a period of time. The KVMA stated that while they understand that costs have increased and that an increase in fees is necessary, any increase in fees should be spread out and they should not be raised all at once. They further state that this phasing in may need to occur with all fees for all the licenses of the board. One commentor cited the national inflation rate for the U.S., stating, "According to the US Department of Labor as of August 2023 inflation is 3.2%. While we all know that is not an accurate number, is it 100%?" One commentor states that the tax burden is already unfair because of the small animal services tax that veterinarians are now required to pay. One commentor stated that, in particular for licensed veterinary technicians (LVTs) who only make \$10-18 per hour, the fee increase is a terrible burden. They cite that often the veterinary facility they work for does not pay for their licensing fees. Some commentors state that this increase will drive licensees from the profession. One commentor stated that if no changes were made to the newly proposed 201 KAR 16:750, then KBVE may as well abolish LVT licensing and fees because there is no point to a license if there is no difference between an LVT and a veterinary assistant. Some commentors do acknowledge that an increase in fees is necessary, however they indicated that any increase in fees should be spread out and they should not be raised all at once.

(b) Response: It should be noted that KBVE has no authority to dictate to businesses that they must pay the professional licensing fees of their employees.

Additionally, the taxes assessed on veterinary services were put in place by the General Assembly as the legislative body moves the commonwealth away from income tax. KBVE was not in any way involved in the passage of that tax, and the Board is not provided with any of the revenue.

Please refer to budgetary details for the agency in the response to Subject Matter (1). KBVE acknowledges its own failure to address appropriate and incremental fee increases in the past. However, both the current cost of doing business and the passage of a modernized KRS Chapter 321 requires an increase in fees in order for the Board to adequately administer current and new programming, as determined through extensive research and six (6) year budget projections. In response to these comments, KBVE determined to phase in fee increases so that licensees will be better able to manage the increases and not be caused undue stress.

(4) Subject Matter: General Comment – letter from KBVE to KVMA during draft language development and negotiations of proposed filing of 23 RS HB 167

(a) Comment: Dr. Smith – The commentor cited a letter sent from KBVE to the Kentucky Veterinary Medical Association (KVMA) in October 2022 during draft language development and negotiations of proposed filing of 23 RS HB 167. The letter from then Board Chairman Dr. Wills stated “However, in concession to your concerns, KBVE is willing to recommend that the Practice Act bill draft be modified to include a 20% cap on the annual increase of credentialing fees.” Further, the commentor stated, “Since we have a biennial renewal, 20% annually would still only be an \$80 increase. Not \$200.00.”

(b) Response: The October 2022 letter was sent during correspondence exchanged between KBVE and KVMA during a period of negotiations. Many additional meetings and discussions occurred between October 2022 and the filing of 23 RS HB 167 in February 2023. The proposed language cited in the letter was not included in the final bill. Instead, KBVE made concessions in other areas of the bill, including locking in a \$100 fee for initial veterinary facility registration. Although the \$100 fee will not cover the cost to administer this new registration program in the first year, KBVE willingly negotiated in order to craft a practice act bill that KVMA supported. Although the language quoted in the 2022 letter was not included in the Practice Act, KBVE strives to work in partnership with KVMA. In response to this comment, KBVE made changes to the proposed administrative regulation amendment.

(5) Subject Matter: General Comment – exorbitant and catastrophic fee increase for animal control agencies

(a) Comment: Dr. Smith – The commentor stated that the proposed increases in fees for animal control agencies is exorbitant and catastrophic. They state that animal shelters are already doing a thankless task and have little county support. Such an increase in fees may keep some counties from maintaining their certificates with the KBVE and their ability to euthanize animals, causing an animal overpopulation nightmare in communities. They claim that the fee increase will result in more stray and unwanted animals, including increased and inhumane suffering from disease, injury, and homelessness.

(b) Response: An increase in fees for animal control agencies is required because KBVE is currently subsidizing the program quite heavily. The cost for inspectors to visit the site of an

animal control agency (ACA) and write a site visit report is hundreds of dollars, far more than the \$50 annual renewal fee for these facilities. However, KBVE also understands that county budgets and support for ACAs is often very limited. Given the need to better manage and control animal populations in the commonwealth, KBVE understands the need to keep costs low for counties. In response to this comment, KBVE made changes to the proposed administrative regulation amendment.

(6) Subject Matter: General Comment – Fee increase is too much all at once

(a) Comment: ACAB, KACCA, Ms. Book, Dr. Grimes, Mr. McNutt – The commentators stated that they understand the need for an increase in fees, however the proposed large jump all at one time is not good. They stated that such an increase all at once will have a significant effect on most agencies, and that many agencies will not be able to afford such a jump. They request that KBVE increase fees at a slower rate over time.

(b) Response: KBVE notes that the entire KBVE-certified animal control agencies (ACAs) and animal euthanasia specialists (AESs) programs were created to reduce financial burden on counties by allowing counties the choice to either pay for veterinary services to control their county's unwanted pet populations or to save money as KBVE-certified ACA and AES operators because these certified entities may do the work of animal euthanasia in house at a cost savings.

KBVE also notes that there has not been an increase in licensing renewal fees for KBVE-certified ACAs and AESs since the inception of the certifications in 2002. KBVE employs two (2) contract investigators who make site visits to each KBVE-certified ACA on an annual basis. The frequency of the visits is necessary due to high turnover in animal shelter work, and a large gap in understanding of the laws governing ACAs and AESs. These visits help ensure that ACAs and their employees remain in compliance with KBVE laws and DEA controlled substance rules, and help prevent diversion of drugs into Kentucky communities. The proposed increase in costs was to offset the cost of the investigator work, as they make \$100 per hour. Each site visit and subsequent report costs the KBVE approximately \$200 plus mileage. There are additional costs to administer the program, including database costs, office staff, administrative services, etc. All the costs far exceed the minimal fees paid by certified ACAs for the privilege of operating their own euthanasia program.

However, KBVE understands that the burden of fees on counties must be considered. In response to this comment, KBVE rolled back the suggested fee increase in the proposed administrative regulation amendment and also phased in the fee increases over time. This will mean that the KBVE continues to heavily subsidize the ACA and AES programs to keep the programs in financial reach of the counties.

(7) Subject Matter: General Comment – consider tier-based fee system

(a) Comment: ACAB, Dr. Grimes – The commentator asked the KBVE to consider tiering fees. They cite Louisville Metro Animal Services, Boone County, and Kentucky Humane Society that can afford to hire large staff and pay large fees, while other counties can barely afford one person.

(b) Response: KBVE understands there are differences in operational budgets for animal control agencies. However, the fees assessed by the Board are well below the cost to administer the certification programs for ACAs and AESs. There are typically no more than 50 certified ACAs at any one time, and less than 180 certified AESs statewide. It does not make sense to complicate the fee structure unnecessarily just to obtain a few extra dollars from entities that employ a few more people when tiering would increase the administrative burden on the KBVE. Further, tiering would appear to penalize large ACA entities simply for operating in a more populous region of the state. In addition, ACAs have not historically reported accurate data to the KBVE during their renewal, which is one factor that causes KBVE to conduct annual inspections. Given the size of the ACA and AES programs administered by KBVE, as well as the high turnover in ACAs, KBVE determined that tiering fees did not seem reasonable. In response to this comment, KBVE declined to make any changes to the proposed administrative regulation amendment.

(8) Subject Matter: General comment – there should not be any exceptions – the regulations should be enforced against everyone, no exceptions

(a) Comment: Dr. Keith – The commentor stated that if the board is going to make regulations effective, then the regulations need enforced against everyone, “All offices, clinics and hospitals”.

(b) Response: KBVE acknowledges the need to appropriately and effectively enforce KRS Chapter 321 and 201 KAR Chapter 16 in the interest of public protection and as mandated by KRS 321.175 and 321.235. This is part of the reason why fees need increased, due to increased investigative and legal costs. KBVE has spent the past several years with a focus on updating the law so that expectations for licensees are clear and accessible, and so that clients know what they can expect. The intent of the Board is to enforce all provisions of the Kentucky Veterinary Medicine Practice Act. In response to this comment, KBVE declined to make any changes to the proposed administrative regulation amendment.

(9) Subject Matter: General comment – Fees as related to veterinary facility inspections

(a) Comment: Dr. Mickey – The commentor expressed their disappointment about the need for any fees related to veterinary facility registrations given that the final version of the new practice act made inspections only a voluntary option related to registration. They stated, “We were told the purpose of facility registration is to protect the consumer and existing veterinary practices. Without compulsory inspection what justifies any fee at all. A fee for what?! How does voluntary inspection protect my practice from unscrupulous veterinarians?” Further, the commentor stated, “Let's do this right and actually do something useful and productive for our communities and the \$100 fee. Please reconsider and reinstate the mandatory inspection.”

(b) Response: While this proposed administrative regulation does not address veterinary facility fees, future filings by the board will address the four (4) new programs created by the modernized Kentucky Veterinary Medicine Practice Act (KRS Chapter 321), which does include fees related to facility registrations. Veterinary Facility registration and the fees for voluntary inspections shall be addressed in those future filings. A fee is required for the facility registrations to offset costs related to overhead, staffing, and most critically database upgrades

and maintenance. In response to this comment, KBVE declined to make any changes to the proposed administrative regulation amendment.

(10) Subject Matter: Notification procedures on the filing of the administrative regulations were inadequate

(a) Comment: Dr. Todd – The commentor was upset that the KBVE did not send notification to the entire licensee population when these regulations were filed.

(b) Response: KBVE sent notification within one (1) business day to those entities required by law in KRS 13A.270, those on the RegWatch list, and to the Kentucky Veterinary Medical Association (KVMA). Subsequently, KVMA sent an email blast to its Membership. Additionally, the KBVE posted the filings on its website within 24 hours of filing. KBVE notified Dr. Todd how to sign-up for RegWatch notifications, but he had not done so by the time of this SOC filing. KBVE did not send out an email blast to all licensees about these filings because the board did not want to foster confusion amongst the licensee population about when requirements would become effective. Nonetheless, some commentors still interpreted the filings as new rules which they needed to follow immediately, rather than a filing that was still in the public comment phase and not yet effective. In response to this comment, KBVE declined to make changes to the proposed administrative regulation amendment.

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

The public hearing on this administrative regulation was held and written comments were received. The Kentucky Board of Veterinary Examiners responded to the comments and amends the administrative regulation as follows:

Page 2

Section 3(1)

Line 18

After “(1)”, insert “**The renewal deadline shall be March 1 of each year. The renewal period is the time period beginning the day after the renewal deadline to the next renewal deadline.**”

(2)”

After “provided by”, insert “**subsection (4)**”

After “of this”, insert “section”

Delete “(a)”.

Delete “paragraph (b)”.

Delete “subsection”

Page 2

Section 3(1)(a)

Line 19

After “a renewal fee”, insert “**as established in paragraphs (a)-(c)**”
Delete “, on or before March 1,”
Delete “of \$300”.

Page 2

Section 3(1)(a)

Line 20

After “of the certificate.”, insert the following:

“(a) Until June 29, 2026, the renewal fee shall be \$90.

(b) Between June 30, 2026, and June 30, 2028, the renewal fee shall be \$115.

(c) After June 30, 2028, the renewal fee shall be \$150.

(3)”

Page 3

Section 3(1)(b)

Line 1

At the beginning of the line, insert “**(4)**”

Delete “(b)”.

Page 3

Section 3(2)

Line 3

At the beginning of the line, insert “**(5)**”

After “(2)”, insert the following:

“Utilization of Renewal Grace Period.

(a)”

Delete “(2)”.

Page 3

Section 3(2)

Line 5

After “shall be”, insert “**seventy-five (75) dollars**”

Delete “\$100”.

Page 3

Section 3(2)

Line 6

After “as described in”, insert “**Section 3(2)**”

After “administrative regulation”, insert the following:

“The late fee for renewal, if applicable, shall not be reduced or waived without board authorization.

(c)”

Delete “Section 3(1)”.

Page 3

Section 3(2)

Line 9-10

After "April 30 of the", insert "**grace**"

Delete "annual renewal".

Delete "The late fee for renewal, if applicable, shall not be reduced or waived without board authorization".

Page 3

Section 3(3)

Line 12

At the beginning of the line, insert "**(6)**"

Delete "(3)".

Page 3

Section 3(4)

Line 14

At the beginning of the line, insert "**(7)**"

Delete "(4)".

Page 3

Section 3(4)

Line 18

After "a reinstatement fee of", insert "**\$300**"

Delete "\$600".

Page 3

Section 3(4)

Line 20

After "201 KAR 16:550.", insert "**Section 5**"

Delete "Section 1(3)".

Page 4

Section 3(5)

Line 1

At the beginning of the line, insert "**(8)**"

Delete "(5)".

Page 4

Section 4(1)

Line 5

After “(1)”, insert “**The renewal deadline shall be March 1 of each year. The renewal period is the time period beginning the day after the renewal deadline to the next renewal deadline.**”

Delete “xxxxxx”.

Page 5

Section 5(2)(a)

Line 16

After “euthanasia specialist”, insert “**shall**”

Delete “may”.