



1 BOARDS AND COMMISSIONS

2 Kentucky Board of Veterinary Examiners

3 (Amended After Comments)

4 201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled
5 substances certificate from DEA.

6 RELATES TO: KRS 217.177(1), (4), Chapter 258, Chapter 301, 321.207, 321.351

7 STATUTORY AUTHORITY: KRS 321.207(1) – (3),(5)–(8), 321.235(1)(a), (b), (2)(b)3. [(+),
8 (2), 321.235(3), 321.240(5)]

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) permits the Kentucky
10 Board of Veterinary Examiners to authorize an animal control agency to apply for a registration
11 certificate by the United States Drug Enforcement Administration (DEA) to euthanize animals.
12 KRS 321.207(2) requires the applicant agency to comply with administrative regulations that
13 establish standards for the **procurement, management, and disposal of drugs** [~~proper storage~~
14 ~~and handling of the drugs~~] the board has authorized for use, and other provisions that may be
15 necessary to ensure that the drugs are used safely and solely for the purpose of euthanizing
16 animals. KRS 321.235(1)(a), (b), and (2)(b)3. [~~KRS 321.235(3) and 321.240(5)~~] authorize the
17 board to promulgate administrative regulations to implement KRS Chapter 321. This
18 administrative regulation establishes the application, renewal, and reinstatement requirements for
19 certification of an animal shelter as an animal control agency, and the requirements for board
20 inspections at certified animal control agencies.

21 Section 1. Definitions.

1 (1) “Animal Control Agency” means an animal shelter fulfilling the duties required
2 pursuant to KRS Chapter 258, and the animal shelter is either owned, contracted with, or in
3 service on behalf of a county or municipality.

4 (2)

5 (a) “Animal shelter” means a public agency or private humane society, society for the
6 prevention of cruelty to animals, animal protection shelter or control agency, or other facility that
7 provides shelter and care for homeless, stray, unwanted, or injured animals.

8 (b) An “animal shelter” shall not include:

9 1. Shelter or care of wildlife; or

10 2. Premises of a Kentucky Department of Fish and Wildlife Resources credentialed:

11 a. Certified wildlife rehabilitator (301 KAR 2:075);

12 b. Commercial nuisance wildlife control operator (301 KAR 3:120);

13 c. Captive wildlife holder (301 KAR 2:081);

14 d. Wildlife transporter (301 KAR 2:082).

15 (3)[(2)] “Certified Animal Control Agency” means an animal shelter that is certified
16 under the provisions of KRS Chapter 321 and 201 KAR Chapter 16.

17 (4)[(3)] “Designated On-site Manager” means a person who registers with the board to
18 assume responsibility for the **procurement, management, and disposal of drugs** [~~ordering,~~
19 ~~**management, use, and disposal of controlled substances**] at a board-certified animal control
20 agency.~~

21 (5) “Dispose” in relation to drugs means to destroy or transfer.

22 (6) “Manage” in relation to drugs means to administer, dispense, or inventory.

23 (7) “Procure” in relation to drugs means to order, purchase, or receive.

1 Section 2. Application and Renewal Requirements.

2 (1) The applicant animal shelter shall apply to the board for authorization to operate as a
3 certified animal control agency and to apply to the federal Drug Enforcement Administration
4 (DEA) for a Controlled Substance Registration as established by KRS 321.207.

5 (2) A complete application to the board shall include the following [~~components~~]:

6 (a) A completed Application for Certification as an Animal Control Agency form or
7 online equivalent form, including all required attachments;

8 (b) Identification of the agency designated on-site manager;

9 (c) A complete and current list of all individuals performing euthanasia or related
10 activities at the animal shelter, whether or not each individual holds a credential from the board;
11 [~~and~~]

12 (d) An animal control agency verification letter signed by the governing body within the
13 county or municipality, including a statement about the animal shelter's role as an animal control
14 agency or contractor pursuant to KRS 258.195;

15 (e) A list of all Kentucky counties which are provided service by the animal shelter; and

16 (f) Payment of the fee in accordance with 201 KAR 16:514.

17 (3) Prior to the board's issuance of the animal control agency certificate, the applicant
18 shall undergo an inspection of the facility by the board, its inspector, or other designee of the
19 board in accordance with Section 5 of this administrative regulation.

20 (4) Following board application approval, the applicant shall apply to DEA for
21 registration as a practitioner and designate "animal shelter" on the appropriate DEA application
22 form.

1 (5) A certified animal control agency shall submit to inspection by a board representative
2 at any time, with or without advanced notice.

3 (6) A certified animal control agency shall identify a designated on-site manager in
4 accordance with 201 KAR 16:552.

5 (a) The agency shall notify the board in writing within ten (10) days of any change in the
6 designated on-site manager of the certified animal control agency [~~animal shelter~~] by submitting
7 a completed Request for a New Designated On-site Manager form or online equivalent form,
8 including all required attachments.

9 (b) The designated on-site manager shall be responsible for complying with all state and
10 federal laws related to the ordering, purchase, storage, tracking, management, and disposal of the
11 drugs obtained under the DEA controlled substances registration.

12 (7) Background checks. **Pursuant to KRS 321.189, the** [~~The~~] board may:

13 (a) Conduct [~~conduct~~] a national or jurisdictional level background check on each
14 designated on-site manager. The check shall be processed by a board approved background
15 check provider, and may include a copy of the designated on-site manager's fingerprints captured
16 at a board approved location;

17 (b) Accept [~~The board may accept~~] the results of a state-wide [~~an~~] employment
18 background check [~~from the county office~~] in lieu of a state or federal background check if the
19 background check results are not more than **ninety (90) days old** [~~six (6) months old~~] from the
20 date of application;

21 (c) Reject [~~The board may reject~~] background checks that do not have an official seal or
22 watermark, or that are more than ninety (90) days old; and

1 (d) Impose [~~The board may impose~~] additional administrative or safety requirements as
2 a condition of certification for the animal control agency or deny certification following the
3 board's review of findings from a background check.

4 Section 3. Renewal Requirements for a Certified Animal Control Agency.

5 (1) A board-certified animal control agency shall renew the board certification annually
6 in accordance with 201 KAR 16:572.

7 (2) Failure to renew the certificate for an animal control agency shall result in the
8 following actions by the board:

9 (a) The animal control agency certificate shall be moved to expired status;

10 (b) Each "active" status certified animal euthanasia specialist under the employment of
11 the expired certified animal control agency shall be moved to "inactive" status;

12 (c) The DEA shall be notified of the lapse in certification; and

13 (d) The board shall conduct a closeout inspection within six (6) months of the date of
14 expiration of the certificate to ensure that the controlled substances and other drugs on-site are
15 properly disposed of. An animal shelter with an expired certificate shall continue to maintain the
16 drugs in accordance with 201 KAR 16:552, and the Kentucky Veterinary Medicine Practice Act
17 (KRS Chapter 321), and 201 KAR Chapter 16, until the drugs are transferred in accordance with
18 state and federal laws, or disposed of in accordance with 201 KAR 16:552, Section 7.

19 Section 4. Reinstatement Requirements for Certified Animal Control Agencies.

20 (1) An animal control agency with an expired certificate shall have five (5) years to
21 reinstate their certificate by submitting a completed Reinstatement Application for Animal
22 Control Agencies form or online equivalent form, including all required attachments and
23 payment of the reinstatement application fee pursuant to 201 KAR 16:514.

1 (2) The animal control agency shall undergo inspection by an authorized representative of
2 the board in accordance with Section 5(3) of this administrative regulation prior to the
3 reinstatement of a certificate.

4 (3) After five (5) years of the date of the expiration of the certificate, the agency shall not
5 [~~be able to~~] reinstate the certificate and the animal control agency shall be required to apply for a
6 new certificate in accordance with 201 KAR Chapter 16 [~~this administrative regulation and 201~~
7 ~~KAR 16:572~~].

8 Section 5. Inspection Requirements.

9 (1) A certified animal control agency shall be subject to inspection by the board, its
10 investigator, or a board representative.

11 (2) An inspection may occur at any time, with or without advance notice. The designated
12 on-site manager shall make themselves available to provide access and information during the
13 inspection.

14 (3) An inspection shall be required:

15 (a) Prior to the approval of a new Application for Certification as an Animal Control
16 Agency;

17 (b) Prior to the approval of a Reinstatement Application for Animal Control Agencies, if
18 the last inspection was completed more than twelve (12) months prior to the date of the
19 application;

20 (c) Periodically on a schedule set by the board, not more routinely than every ten (10)
21 months, and at least once every two (2) years;

22 (d) As needed due to staff turnover at the animal control agency;

1 (e) Under suspicion of probable cause for violation of KRS Chapter 321 or 201 KAR
2 Chapter 16; and

3 (f) Following the expiration, termination, suspension, or surrender of the certificate in
4 accordance with Section 3(2)(d) of this administrative regulation.

5 Section 6. Incorporation by Reference.

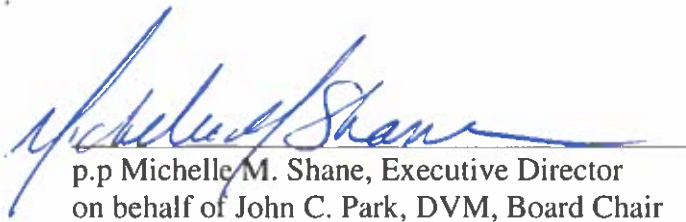
6 (1) The following material is incorporated by reference:

7 (a) "Application for Certification as an Animal Control Agency", 7/2023~~[12/2022]~~;

8 (b) "Reinstatement Application for Animal Control Agencies", 7/2023~~[12/2022]~~; and

9 (c) "Request for a New Designated On-site Manager", 7/2023~~[12/2022]~~.

10 (2) This material may be inspected, copied, or obtained, subjected to applicable copyright
11 law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky
12 40601, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at
13 www.kybve.com.



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 application and renewal requirements for certification as an animal control agency, and the requirements for board inspections at certified animal control agencies.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish the application requirements for certification as an animal control agency, as mandated by KRS 321.207.

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

KRS 321.207 specifically requires the board to promulgate administrative regulations related to the application requirements for certification as an animal control agency.

(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 detailing board expectations for applications and renewals of board-issued certificates for animal control agencies, and requirements related inspections of board-certified animal control agencies.

(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 312; adding clarifying definitions, clarifying that eligible animal shelters should have a mission to support the county or municipality with their in animal control needs, and clarifying that animal shelters eligible for a KBVE certificate do not include the handling, management, and transport of wildlife, because wildlife management falls under the scope of the Kentucky Department of Fish and Wildlife Resources.

(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 312. The Kentucky Board of Veterinary Examiners has determined this amendment is necessary to prevent application for wildlife shelter certification to the board, because wildlife control and management is beyond the board's scope of authority, and instead is under the scope of the Kentucky Department of Fish and Wildlife Resources.

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

KRS 321.207 specifically requires the board to promulgate administrative regulations related to board-certified animal control agencies, including who is eligible to apply and the application requirements.

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

This amendment shall ensure transparency about who is eligible to apply.

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

50 board-certified animal control agencies and 232 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:

There will not be any impact to currently regulated entities. This amendment shall ensure that those who are not qualified to apply do not pay a fee and then have their application denied by the board.

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

This amendment will save potential applicants money by clarifying who is eligible for KBVE certification as an animal control agency.

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

Administrative ease of clear communications of the approved requirements.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

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

This administrative regulation does not establish fees. Funding for the KBVE comes from licensure and certification fees.

(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:

No fees are established or increased by this administrative regulation.

(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 and KBVE-certified county animal shelters.

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

KRS 321.207, KRS 321.235

(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?

No revenue will be generated from this filing.

(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?

No revenue will be generated from this filing.

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

This is not a new program.

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

Staff time is required for record keeping. Costs will be very minimal.

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

Revenues (+/-): None.

Expenditures (+/-): None or negligible.

Other Explanation: n/a

(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 no additional costs involved.

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

There will be no additional costs involved.

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 (+/-): None or negligible.

Other Explanation: n/a

(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 16:550

Kentucky Board of Veterinary Examiners
(Amended After Comments)

I. The public hearing on 201 KAR 16:550, 201 KAR 16:552, 201 KAR 16:560, 201 KAR 16:701, 201 KAR 16:702, and 201 KAR 16:750 scheduled for September 25, 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:

<u>Name and Title</u>	<u>Agency / Organization / Entity / Other</u>
O. Wayne Bailey, DVM	Countryside Animal Hospital (Mt. Sterling, KY)
James Beckman, DVM	Gas Light Equine (Westport, KY)
Abbey E. Biddle, DVM	Commonwealth Veterinary Clinic (Georgetown, KY)
William E. Bollinger, DVM	Central Kentucky Veterinary Center (Georgetown, KY)
Ashley Book, Director	Louisville Metro Animal Services (Louisville, KY)
Emily P. Bridge, DVM	Commonwealth Veterinary Clinic (Georgetown, KY)
Mark Brengelman, Attorney and Legal Counsel for the Board	Kentucky Board of Veterinary Examiners (KBVE) (Frankfort, KY)
Amanda C. Briggs	KBVE Board Staff (Frankfort, KY)
Jason A. Burcham, DVM	Tri Point Veterinary Clinic (Hebron, KY)
Irene Carter-Ballard, DVM	Town & Country Veterinary Services (Lebanon, KY)
Johanna Choate, DVM	Choate Veterinary Services (Almo, KY)
Darrell L. Coffey, DVM	Russell County Animal Clinic (Russell Springs, KY)
Janet D. Donlin, DVM, on behalf of AVMA	American Veterinary Medical Association (AVMA) (national)
Catherine Donworth, MVE	Donworth Veterinary (Lexington, KY)
LaNita S. Flanary, DVM	Flanary Veterinary Clinic (Paducah, 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	Animal Clinic of Estill County (Irvine, KY), and Animal Control Advisory Board (ACAB) (statewide)
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)
Robert E. Holland, Jr., DVM, PhD.	Robert E Holland Jr DVM PSC (Lexington, KY)
John A. Keith, DVM, MBA, MEcon	Crossroads Veterinary Clinic, LLC (Versailles, KY)
Amy Kerley, DVM	Progressive Animal Healthcare (Paducah, KY)
W. Wade King, DVM	Frankfort Animal Clinic (Frankfort, KY)
Barb Lewis, MA, LVT, VTS (Clinical Pathology)	Morehead State University (Morehead, KY)
Mike McNutt, AES, and on behalf of KACCA	Hardin County Animal Control (Elizabethtown, KY), and Kentucky Animal Care and Control Association (KACCA) (statewide)
Barbie M. Papajeski, MS, LVT, RLATG, VTS (Clinical Pathology)	Hutson School of Agriculture (Murray, KY)
John C. Park, DVM	KBVE Chairman (Lexington, KY)
Denia M. Pelphrey, DVM	Corydon Animal Hospital, Inc. (Corydon, IN)
Stephanie W. Raispis, DVM	Wilderness Trace Vet Clinic (Junction City, KY)
Andre Regard, Attorney	Regard Law Group (Lexington, KY)
R. Thomas Riney, DVM	Nicholasville Road Animal Hospital (Lexington, KY)
Jason L. Rodgers, DVM	Lone Oak Animal Clinic (Paducah, KY)
Phillip E. Russo, CAE on behalf of NAVTA	National Association of Veterinary Technicians in America (NAVTA) (national)
Michelle Shane, Executive Director	KBVE Board Staff (Frankfort, KY)
Debra K. Shoulders, DVM	House Calls for Paws & Claws (Bowling Green, KY)
Tammy T. Smith, DVM	Knox County Veterinary Services (Barbourville, KY)
Scott A. Steele, MS, LVT, VTS (Dentistry), and on behalf of KVTA and NAVTA	Clays Mill Veterinary Clinic (Lexington, KY), and Kentucky Veterinary Technician Association (KVTA) (statewide), and National Association of Veterinary Technicians in America (NAVTA) (national)
Aaron H. Stamper, DVM	Pet WOW (Highland Heights, KY)
Rachael Stephenson, LVT	Progressive Animal Healthcare (Paducah, KY)
Angalyn D. Theno, DVM	Bluegrass Animal Care Center (Radcliff, KY)
Jon M. Todd, DVM	Logan County Animal Clinic (Russellville, KY)
Scott S. Tritsch, DVM	Central Kentucky Veterinary Center (Georgetown, KY)
R. Steven Velasco, III, DVM	Kentucky State Veterinarian (statewide), and KBVE Board Member as proxy for the KDA Commissioner of Agriculture (Versailles, KY)
James M. Weber, Jr., DVM	Retired (Alexandria, KY)
Laura E. Williams, DVM	Luna Veterinary Services (Mayfield, KY)
Steven J. Wills, DVM	KBVE Board Member (Owensboro, KY)
Mary A. Zink, DVM	Phoenix Animal Care (Bedford, KY)

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: Section 1(2) – limitations on the definition of “Animal shelter”;
Section 2 – application and renewal requirements.

(a) Comment: Dr. Holland, and Mr. Regard – Commentors seek to allow wildlife rehabilitators who are licensed by the Kentucky Department of Fish and Wildlife Resources (KDFWR) to apply for and obtain a certificate for operation as a Kentucky Board of Veterinary Examiners (KBVE)-certified Animal Control Agency (ACA) and to have employees and volunteers under the wildlife rehabilitation permit eligible to obtain a KBVE certificate to operate as an animal euthanasia specialist (AES) in order to perform animal euthanasia on wildlife. They cite 301 KAR 2:075 as justification.

(b) Response: Pursuant to KRS 321.181(50)(b), euthanasia falls under the definition of veterinary medicine. Pursuant to KRS 321.181(7), the definition of an “animal shelter” does not include work with wildlife; the purpose of an “animal shelter” is solely for the control of pet populations. Further, wildlife rehabilitators do not fit the definition of an “animal control agency” as defined in this administrative regulation, which operate under KRS Chapter 258 and for the benefit of a county’s obligations to control pet populations.

Pursuant to KRS 321.207, only animals that are owned by a KBVE-certified animal control agency may be euthanized by a KBVE-certified animal euthanasia specialist. As the wildlife held by a KDFWR-certified wildlife rehabilitator is not owned by the rehabilitator, but rather held in temporary custody, any KDFWR-certified wildlife rehabilitator would not qualify for a KBVE certificate for either an ACA or AES.

Pursuant to 301 KAR 4:110, Section 3, KDFWR limits wildlife rehabilitation permit holders to administering drugs under the direction of a Kentucky licensed veterinarian in which a veterinarian-client-patient relationship (VCPR) is established pursuant to KRS 321.185 and 301 KAR 2:075. It is important to note that a VCPR is a patient-specific relationship (except farm work in which a VCPR is herd specific). Under this KDFWR regulation, a veterinarian’s direction is required for administration of any drug to wildlife, and the patient specific VCPR must be established in order for the veterinarian to prescribe any drugs. There is no provision by

which a wildlife rehabilitation permit holder is able to make a determination about euthanasia of a captive wildlife patient independent of a veterinarian.

Pursuant to KDFWR regulation 301 KAR 2:075 (updated in February 2023), Section 9(6), only a licensed veterinarian or licensed veterinary technician shall perform euthanasia using AVMA approved non-inhaled chemical methods under KRS Chapter 321. Wildlife rehabilitators under this regulation are specifically prohibited from performing euthanasia on wildlife.

Because multiple statutes and regulations already prohibit wildlife rehabilitators from qualifying as an animal control agency to perform euthanasia, the KBVE declined to make any changes to the proposed amended regulation. KBVE does not seek to promulgate administrative regulations in contravention of its own governing statutes, nor regulations in contravention of another agency's rules. In response to this comment, KBVE declined to make any changes to the proposed amendment to the regulation.

(2) Subject Matter: Section 1(2) and (3) – definitions for “animal shelter” and “certified animal control agency”.

(a) Comment: AVMA – The commentor is concerned that the definition of animal shelter is too broad and may allow for “rescues” and animal foster homes to apply for certification as an animal control agency and possibly gain access to controlled substances.

(b) Response: KBVE shares the concerns of AVMA. With the proposed amendments to this regulation, KBVE intends to clarify the definition of an “animal control agency” in Section 1(1) to an animal shelter fulfilling the duties required pursuant to KRS Chapter 258, where the animal shelter is either owned, contracted with, or in service on behalf of a county or municipality. The KBVE does not intend to allow any backyard rescues or private citizens to obtain a DEA Registration for controlled substances under KBVE's scope of authority pursuant to KRS Chapter 321 or 201 KAR Chapter 16. One safeguard proposed in the filed amendment is in Section 2(1), application requirements, with an added provision to require the county or municipality's governing body to sign off on the animal shelter's role as providing services under KRS 258.195. Given the proposed clarification of the definitions in the administrative regulation, KBVE determined that this comment is addressed sufficiently in the proposed amendments. In response to this comment, KBVE declined to make further changes to the proposed administrative regulation amendments.

(3) Subject Matter: Section 1 – Definitions required for “dispose”, “manage”, and “procure” drugs.

(a) Comment: Dr. Velasco – The commentor requested that KBVE add definitions for terms related to the handling of drugs and controlled substances for clarity in the regulation.

(b) Response: KBVE agrees with the commentor as these terms relate to drugs. In response to this comment, KBVE decided to make changes to the proposed administrative regulation amendment.

(4) Subject Matter: Opportunity to review proposed changes to the regulations prior to being finalized.

(a) Comment: KVMA, Ms. Hamelback, Dr. Weber – The commentors asked if there would be opportunity for stakeholders to review and provide additional feedback on any proposed changes to the draft prior to final filing with LRC. One commentor asked for a timeline on the final processes for these filed regulations.

(b) Response: Under KRS Chapter 13A, the answer is no. However, KBVE did work on the regulations during two board meetings prior to the public meeting and published the proposed changes to the filed regulations in an effort to allow stakeholder review prior to the final filings. KBVE is required to provide a Statement of Consideration (SOC) to LRC on each filed administrative regulation that received comments, including a response to all comments received and detailed description of the changes made. Once the final filing is made, the General Assembly Administrative Regulations Review Subcommittee (ARRS) shall have final review. For the current filed regulations, the SOCs were targeted for completion and filing with LRC by October 15; if that date was met, the ARRS would have heard these regulations in November. However, development of the SOCs took longer; the final filing shall occur by November 15 and the ARRS shall hear the regulations in December. After the hearing, Members of the ARRS shall have 90 days to further review the regulations. Unless deferred or found deficient, the filed administrative regulation will go into effect on or before expiration of the 90-day review period. If and when these final filings become effective, the Board may take up the regulation again at any time and file an amendment under the process established in KRS Chapter 13A. Anyone can request that the Board take up the regulation for revision by making the request in writing to the Board's executive director or attending a board meeting and making such a request for review. In response to this comment, KBVE declined to make changes to the proposed administrative regulation amendment.

(5) 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 contacted the KBVE office with questions because they 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 any changes to the proposed administrative regulation amendment.

(6) Subject Matter: Transcripts of the hearing.

(a) Comment: Dr. Beckman, Dr. Bollinger, Dr. Tritsch – Multiple commentors requested copies of a transcript of the hearing.

(b) Response: Pursuant to KRS 13A.270(11), any individual requesting a transcript has the responsibility to pay for the transcript. KBVE did not intend to bring in a court reporter to transcribe the meeting but did plan to and actually did follow through with capturing an audio recording of the meeting. Prior to the meeting, all parties were notified of this provision in statute and provided the option to arrange for and pay in advance for a court reporter and written transcript. However, all parties declined the written transcript option and instead agreed to accept the audio recording of the public hearing in lieu of a written transcript. Copies of the audio recording were provided to the requestor less than three (3) hours after the conclusion of the meeting. 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 1

Section: Necessity, Function and Conformity

Line 13

After “standards for the”, insert “**procurement, management, and disposal of drugs**”
Delete “proper storage and handling of the drugs”.

Page 2

Section 1(4)

Line 17

After “responsibility for the”, insert “**procurement, management, and disposal of drugs**”
Delete “ordering, management, use, and disposal of controlled substances”.

Page 2

Section 1

Line 18

After “agency.”, insert the following:

(5) “Dispose” in relation to drugs means to destroy or transfer.

(6) “Manage” in relation to drugs means to administer, dispense, or inventory.

(7) “Procure” in relation to drugs means to order, purchase, or receive.”

Page 4

Section 2(7)

Line 6

After “checks.”, insert “**Pursuant to KRS 321.189, the**”

Delete “The”

Page 4

Section 2(7)(b)

Line 13

After “not more than”, insert, “**ninety (90) days old**”

Delete “six (6) months old”.