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Emily S. Caudill
REGULATIONS COMPILER

1 BOARDS AND COMMISSIONS

2 Kentucky Board of Veterinary Examiners

3 (Amended After Comments)

4 201 KAR 16:560. Certification as an animal euthanasia specialist.

5 RELATES TO: KRS 257.160, 321.207, [~~321.235(7)~~], 321.351, Chapter 335B

6 STATUTORY AUTHORITY: KRS 321.207(4)-(7), 321.235(1)(a), (b), (2)(b)3. [~~(3)~~, ~~321.235(3)~~,
7 ~~321.240(5)~~]

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(3) requires the Kentucky
9 Board of Veterinary Examiners to issue a certificate to a person who meets the qualifications of
10 an animal euthanasia specialist and is approved by the board for a certificate. KRS
11 321.235(1)(a), (b), and (2)(b)3. [~~KRS 321.235(3) and 321.240(5)~~] authorize the board to
12 promulgate administrative regulations to implement KRS Chapter 321. This administrative
13 regulation establishes the qualifications for certification as an animal euthanasia specialist,
14 renewal, and reinstatement requirements, and the required course contents for the euthanasia by
15 injection training each applicant is required to receive.

16 Section 1. To be eligible for certification as a board-certified animal euthanasia specialist
17 an applicant shall:

18 (1) Be at least twenty-one (21) years of age;

19 (2) Be of good moral character;

20 (3) Not have been convicted of, or entered an "Alford" plea or plea of nolo contendere to,

21 irrespective of an order granting probation or suspending imposition of any sentence imposed

1 following the conviction or entry of the plea, one (1) or more of the following in the last ten (10)
2 years, subject to the provisions of KRS Chapter 335B:

3 (a) A felony;

4 (b) An act involving moral turpitude or gross immorality; or

5 (c) A violation of any law, rule, or administrative regulation of this state, any other state,
6 or the United States government that involves the use or trafficking of illegal substances;

7 (4) Have a high school diploma or general equivalency degree (GED);

8 (5) Pay the ~~[initial]~~ certification fee as specified in 201 KAR 16:514;

9 (6) Be employed by a board-certified animal control agency; and

10 (7) Have successfully completed a board approved sixteen (16) hour euthanasia by
11 injection (EBI) course as established in Section 2 of this administrative regulation within twelve
12 (12) months prior to application.

13 Section 2. Euthanasia by Injection (EBI) Training Course Curriculum.

14 (1) The curriculum for the sixteen (16) hour EBI course shall provide information on the
15 following subjects:

16 (a) Pharmacology, proper administration, and storage of euthanasia solutions that shall
17 consist of a minimum of eight (8) hours;

18 (b) Federal and state laws regulating the procurement, management, and disposal
19 ~~[storage and accountability]~~ for euthanasia drugs ~~[solutions]~~ and sedation drugs used to assist
20 in euthanasia;

21 (c) Euthanasia specialist stress management and compassion fatigue;

22 (d) Proper animal handling with emphasis on easing the trauma and stress to the animal;

23 and

1 (e) Disposal of euthanized animals.

2 (2) An EBI training course shall be reviewed and approved by the board prior to
3 presentation. A provider of an EBI training shall submit the following information to the board
4 for consideration of approval:

5 (a) A published course or similar description;

6 (b) Names and qualifications of current instructors;

7 (c) A copy of the program agenda indicating hours of education, refreshment, and lunch
8 breaks;

9 (d) A copy of the full program curriculum;

10 (e) A copy of an official certificate of completion from the sponsoring agency; and

11 (f) Upon completion of the instruction of a sixteen (16)-hour euthanasia course, a
12 complete attendee list to the board, including the following:

13 1. The dates and locations of the course;

14 2. Each attendee's full name and address; and

15 3. Notation by an individual's name if the course was not completed, or more than fifteen
16 (15) consecutive minutes of any portion of the course was missed.

17 Section 3. An application to the board for certification as an animal euthanasia specialist
18 shall include the following [~~components~~]:

19 (1) A completed application on an Application for Certification as an Animal Euthanasia
20 Specialist form or online equivalent form, including all required attachments;

21 (2) An official copy of final transcripts or a copy of the applicant's diploma from high
22 school, or GED certificate, or other highest level of education attained;

1 (3) A copy of a certificate of completion from a board approved sixteen (16)-hour
2 euthanasia by injection training course; and

3 (4) Payment for the application fee pursuant to 201 KAR 16:514.

4 Section 4. Renewal Requirements for a Certified Animal Euthanasia Specialist
5 [Control Agency].

6 (1) A board-certified animal **euthanasia specialist** ~~[control agency]~~ shall renew the
7 board certification annually in accordance with 201 KAR 16:572.

8 (2) Failure to renew the certificate for an animal euthanasia specialist [control agency]
9 shall result in expiration of the certificate.

10 Section 5. [Section 4.] An individual with an expired animal euthanasia specialist
11 certificate may reinstate their certificate if not more than five (5) years have elapsed since the last
12 date of certificate expiration. Reinstatement applications seeking board approval for certification
13 as an animal euthanasia specialist shall include the following ~~[components]~~:

14 (1) A completed application on a Reinstatement Application for Animal Euthanasia
15 Specialists form or online equivalent form, including all required attachments; ~~[and]~~

16 (2) Payment for the application fee pursuant to 201 KAR 16:514; and

17 (3) Proof of certification in the 16-hour euthanasia by injection training course
18 pursuant to Section 1(7).

19 Section 6[Section 5]. An application to the board for approval for a change in
20 certification [license] status shall be made in accordance with 201 KAR 16:580.

21 Section 7[Section 6]. Background checks. Pursuant to KRS 321.189, the [The] board
22 may:

1 (a) Conduct ~~[conduct]~~ a national or jurisdictional level background check on each
2 applicant for certification. The check shall be processed by a board approved background check
3 provider, and may include a copy of the applicant's fingerprints captured at a board approved
4 location; ~~[-The board may accept]~~

5 (b) Accept the results of a state-wide ~~[an]~~ employment background check ~~[from the~~
6 ~~county office]~~ in lieu of a state or federal background check if the background check results are
7 not more than six (6) months old from the date of application; ~~[-The board may reject-]~~

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

10 (d) Impose additional administrative or safety requirements as a condition of certification
11 or deny certification following the board's review of findings from a background check.

12 Section 8~~[Section 7]~~. Employment and Termination.

13 (1) A person may function as a certified animal euthanasia specialist only while the
14 person remains employed by a board-certified animal control agency in the Commonwealth of
15 Kentucky.

16 (2) Upon termination of employment with a certified animal control agency ~~[or upon~~
17 ~~expiration of the certified animal control agency's certificate]~~, a certified animal euthanasia
18 specialist's certificate status shall automatically be moved by the board from an active to inactive
19 status. The inactive certified individual shall not perform animal euthanasia until the person has
20 obtained employment with a certified animal control agency with a certificate in active status,
21 and applied to the board and been approved to move the animal euthanasia specialist certificate
22 back into active status in accordance with 201 KAR 16:580.

1 Section 9~~[Section 8]~~. Disciplinary Action. A certified animal euthanasia specialist shall
2 be subject to disciplinary action pursuant to KRS 321.235 and 321.351 for a violation of state or
3 federal statutes or administrative regulations.

4 Section 10~~[Section 9]~~. Incorporation by Reference.


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

6 (a) "Application for Certification as an Animal Euthanasia Specialist", 07/2023~~[3/2023]~~;

7 and

8 (b) "Reinstatement Application for Animal Euthanasia Specialists", 07/2023~~[3/2023]~~.

9 (2) This material may be inspected, copied, or obtained, subjected to applicable copyright
10 law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky
11 40601, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at
12 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, renewal, and reinstatement requirements for certification as an animal euthanasia specialist, as well as details on the required training needed to qualify for certification, and background check requirements.

(b) The necessity of this administrative regulation:

As mandated by KRS 321.207, this administrative regulation is necessary to establish the application, renewal, reinstatement, and training requirements for certification as an animal euthanasia specialist.

(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 and training requirements for board-certification as an animal euthanasia specialist.

(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 requirements for application, renewal, and reinstatement of the board-issued animal euthanasia specialist certificate, as well as the training course required for eligibility of certification.

(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:

Clarifies renewal requirements, and adds detail about requirements for the EBI course. Reorganizes section on background checks.

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

The Kentucky Board of Veterinary Examiners has determined this amendment is

necessary in response to issues discovered at certified animal control agencies during periodic shelter inspections. Issues include high staff turnover, and sometimes expired staff certificates.

(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 and the animal euthanasia specialists they employ. This amendment clarifies renewal requirements and details on the EBI training requirements, as well as organizes the section on background checks.

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

This amendment shall ensure transparent standards to ensure compliance related to certification requirements.

(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 are no additional requirements in this amendment. Applicants for certification as an animal euthanasia specialist shall be required to submit application materials as outlined in this administrative regulation.

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

There is a minimal application fee for processing, as established in 201 KAR 16:514.

(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.

(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(4)-(7), 321.235(1)(a), (b), (2)(b)3.

(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. Staff time will be required for record keeping.

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

Staff time will be 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 16:560

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:

Name and Title	Agency / Organization / Entity / Other
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. Pelphey, 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: General comment on applicability of regulation to wildlife groups.

(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 animal euthanasia specialist certificate in order to perform animal euthanasia on wildlife. They cite 301 KAR 2:075 as justification. They offer recommended edits to 301 KAR 2:075 by stating, “2:075 Sec 1(6): should also include ‘of be [sic] a permit holder of a Kentucky Wildlife Rehabilitation Permit.’ 2:075 Sec 7(1) add ‘or holds a Kentucky Wildlife Rehabilitation permit’ Sec 7(2) add ‘or expiration of Kentucky Wildlife Rehabilitation permit’.”

(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 administrative regulation amendment.

(2) Subject Matter: General comment on applicability of regulation to individuals who are not employed by an animal control agency.

(a) Comment: Dr. Pelphey – The commentor stated that anyone working at a veterinary facility should be allowed to apply for a certificate as an animal euthanasia specialist.

(b) Response: Pursuant to KRS 321.181(50)(b), euthanasia falls under the definition of veterinary medicine. 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. 201 KAR 16:550 and 16:552 limit the use of animal euthanasia specialists to within an KBVE-certified animal control agency. Because multiple statutes and regulations already limit a certified animal euthanasia specialist by requiring them to be employed by a certified animal control agency to perform euthanasia, and the limitations on which animals may be euthanized, KBVE does not seek to promulgate administrative regulations in contravention of its own governing statutes. In response to this comment, KBVE declined to make any changes to the proposed amended regulation amendment.

(3) Subject Matter: Section 1(7) – “Have successfully completed a board approved sixteen (16) hour euthanasia by injection (EBI) course as established in Section 2 of this administrative regulation within twelve (12) months prior to application”

(a) Comment: AVMA – The commentor asks if there should be a requirement for recertification after so many years, or some other requirement for training to ensure that the animal euthanasia specialist continues to be current on federal and state requirements affecting their role.

(b) Response: The KBVE recently updated the law to require that anyone who applies for reinstatement of an animal euthanasia specialist certificate or for a new certificate must show proof of completion for the 16-hour euthanasia by injection (EBI course) within the 12-months prior to application. Previously, there was no requirement for retraining. Additionally, KBVE inspectors visit certified animal control agencies at least once per year to go over the laws governing controlled substances management. As a result of this comment, the KBVE declined to make changes to the proposed administrative regulation amendment.

(4) Subject Matter: Section 2(1)(a) – “Euthanasia by Injection (EBI) Training Course Curriculum. (1) The curriculum for the sixteen (16) hour EBI course shall provide information on the following subjects: (a) Pharmacology, proper administration, and storage of euthanasia solutions that shall consist of a minimum of eight (8) hours;...”

(a) Comment: AVMA – The commentor is concerned that this paragraph also covers the requirement to learn about extralabel use of drugs, if the drugs authorized by the KBVE remain the same as those listed in 201 KAR 16:552, specifically the inclusion of sodium pentobarbital with lidocaine.

(b) Response: In response to comments, the KBVE edited 201 KAR 16:552 to remove authorization of sodium pentobarbital with lidocaine. Therefore, the training requirement in this regulation does not need adjusted. In response to this comment, KBVE declined to make any changes to the proposed administrative regulation amendment.

(5) Subject Matter: Section 4 - Animal Control Agency renewal requirements

(a) Comment: Ms. Shane – Upon final review of this regulation at the conclusion of the public comment period, the KBVE executive director noted that Section 4 regarding renewal requirements incorrectly referred to animal control agencies rather than animal euthanasia specialists, which this regulation is focused on.

(b) Response: In response to this comment, KBVE amended the proposed administrative regulation amendment.

(6) 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, an ordinary regulation will go into effect on or before expiration of the 90-day review period. If and when these final filings become effective administrative regulations, 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.

(7) Subject Matter: Failure to provide advance copies of these regulations prior to filing to KVMA, KVTA, and other stakeholders.

(a) Comment: Dr. Smith – The commentor stated that they represented the KVMA Southeast region. They relayed that many constituents from this area had volunteered to participate in working groups were not consulted for these regulations. They asked what happened. Several of her colleagues have expressed a feeling of betrayal and breach of trust.

(b) Response: KBVE notes that there appears to have been a miscommunication. KBVE did pledged to work with stakeholders in advance of filing on regulations for the new programs in the modernized Practice Act, specifically those for registered facilities, allied animal health professional permits, and the educational awards program. However, KBVE did not commit to working in advance of filing on all administrative regulations. This is what the public comment period is for under KRS Chapter 13A. KBVE is still committed to working with stakeholders in advance of filing in those areas, and drafts for review are already available on the KBVE website at <https://www.kybve.com/practice-act.html>. No comments on those drafts have been received to date. KBVE will be scheduling stakeholder meetings to discuss these drafts prior to filing with LRC. In response to this comment, KBVE declined to make changes to the proposed administrative regulation amendment.

(8) 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.

(9) 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 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 2
Section 1(5)
Line 8
Delete "initial".

Page 2
Section 2(1)(b)
Line 18-19
After "regulating the", insert "**procurement, management, and disposal**"
After "euthanasia", insert "**drugs**"
After "solutions and", insert "**sedation**"
Delete "storage and accountability"
Delete "solutions"

Page 4
Section 4
Line 2
After "Certified Animal", insert "**Euthanasia Specialist**"
Delete "Control Agency".

Page 4
Section 4(1)
Line 3
After "board-certified animal", insert "**euthanasia specialist**"

Delete “control agency”.

Page 4

Section 4(2)

Line 5

After “an animal”, insert “**euthanasia specialist**”

Delete “control agency”.

Page 4

Section 5(1)

Line 12

Delete “and”.

Page 4

Section 5(2)

Line 13

After “201 KAR 16:514”, insert the following:

“**; and**

(3) Proof of certification in the 16-hour euthanasia by injection training course pursuant to Section 1(7).”

Page 5

Section 7

Line 16

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

Delete “The”.