902 KAR 20:008. License procedures and fee schedule.

RELATES TO: KRS 216.2925, 216.530, 216B.010, 216B.015, 216B.020(2)(c), (3), 216B.040, 216B.042, 216B.045-216B.055, 216B.075, 216B.105-216B.131, 216B.185, 216B.990

STATUTORY AUTHORITY: KRS 216.530(1), 216B.042(1)(a)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042(1)(a) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function and to establish reasonable application fees for licenses. This administrative regulation establishes the fee schedule and requirements for obtaining a license to operate a health facility or health service, and establishes the procedure for obtaining a variance.

Section 1. Definitions.

(1) "Adverse action" means action taken by the Cabinet for Health and Family Services, Office of Inspector General to deny, suspend, or revoke a health facility's or health service's license to operate.

(2) "Cabinet" is defined by KRS 216B.015(6).

(3) "Deemed hospital" means a hospital that has had its accreditation accepted by the Office of Inspector General pursuant to KRS 216B.185(1) as evidence that the hospital demonstrates compliance with the licensure requirements of KRS Chapter 216B.

(4) "Health facility" is defined by KRS 216B.015(13).

(5) "Health services" is defined by KRS 216B.015(14).

(6) "Inspector General" means the Inspector General of the Cabinet for Health and Family Services or designee.

(7) "Significant financial interest" means lawful ownership of a health facility or health service, whether by share, contribution, or otherwise in an amount equal to or greater than twenty-five (25) percent of total ownership of the health facility or health service.

(8) "Variance" means the written approval of the Inspector General authorizing a health facility to depart from a required facility specification, upon meeting the conditions established in Sections 4 and 5 of this administrative regulation.

Section 2. Licenses.

(1) Any person or entity, in order to lawfully operate a health facility or health service, shall first obtain a provisional license.

(2) A license required by KRS 216B.105(1), including a provisional license, shall be conspicuously posted in a public area of the health facility.

(3) An applicant for provisional licensure or annual renewal of licensure as a health facility or health service shall complete and submit to the Office of the Inspector General the appropriate application as follows:

(a) Application for License to Operate a Health Facility or Health Service;

(b) Application for License to Operate a Chemical Dependency Treatment Service, Group Home, Psychiatric Residential Treatment Facility, or Residential Hospice Facility;

(c) Application for License to Operate a Hospital;

(d) Application for License to Operate a Home Health Agency, Non-residential Hospice, or Private Duty Nursing Agency;

(e) Application for License to Operate a Renal Dialysis Facility, Freestanding or Mobile Technology, or Hospital-owned Pain Management Clinic;

(f) Application for License to Operate a Long Term Care Facility; or

(g) Application for License to Operate a Family Care Home.

(4) Provisional License. Upon receipt of an application for a license and appropriate licensure fee as established in Section 3 of this administrative regulation, the Office of Inspector General shall:

(a) Review the application for completeness, including documentation related to:

1. Ownership;
2. Personnel;
3. Operations and administrative policies;
4. The type of services to be provided applicable to the license requested; and
5. if appropriate, plans and specifications for construction or renovation; and

(b) Return the application and accompanying licensure fee if:

1. An individual having a significant financial interest in the health facility or health service has had, within the seven (7) year period prior to the application date, a significant financial interest in a facility or service that was licensed or certified by the cabinet, and the license or certificate to operate was denied, suspended, revoked, or voluntarily relinquished as the result of an investigation or adverse action that placed patients, residents, or clients at risk of death or serious harm; or
2. The cabinet finds that the applicant misrepresented or submitted false information on the application.

(5) If an application is determined complete and no statutory or regulatory deficiencies are identified, the Office of Inspector General shall issue a provisional license to remain in effect until:

(a) Completion of the on-site inspection established in subsection (7) of this section; and

(b) Verification of compliance with each statute and administrative regulation applicable to the license requested.

(6)

(a) Upon receipt of a provisional license, the licensee shall begin providing health services as designated on the licensure application.

(b) If a provisional licensee does not begin providing services within ten (10) business days after receipt of the provisional license, the licensee shall provide written notification to the cabinet of the following:

1. The reason the licensee has not yet begun providing services; and
2. The anticipated date the licensee will begin operating.

(c) The licensee shall notify the cabinet within three (3) business days after the licensee begins providing services.

(7)

(a) Within three (3) months from the effective date of a provisional license, the Office of Inspector General shall conduct an unannounced, on-site inspection of the health facility or health service to verify compliance with each statute and administrative regulation applicable to the license requested.

(b) If the Office of Inspector General identifies a statutory or regulatory violation or multiple violations during the provisional licensure period, the health facility or health service shall be subject to the correction process established in subsection (13) of this section.

(8) A provisional license shall expire on the date the Office of Inspector General grants approval of or denies a license following the inspection described in subsection (7) of this section.

(9) If a provisional licensee receives notice from the Office of Inspector General that a license is denied, the licensee shall cease providing services immediately.

(10) Written notice denying a license shall explain the reason for the denial, including:

(a) Substantial failure, as described by KRS 216B.105(2), to comply with the provisions of KRS Chapter 216B or any administrative regulation applicable to the

regular license;

(b) Substandard care that places patients, residents, or clients at risk of death or serious harm; or

(c) Denial of access to the Office of Inspector General as described in subsection (12) of this section.

(11) The effective date of the license shall be backdated to the issuance date of the provisional license and be subject to annual renewal within one (1) year from the effective date.

(12) Licensure inspections.

(a) Except for a health facility subject to KRS 216.530, a licensure inspection may be unannounced.

(b)

1. A representative of the Office of Inspector General shall have access to the health facility pursuant to KRS 216B.042(2).

2. An applicant for licensure or a current licensee shall not deny access to a representative of the Office of Inspector General, after proper identification, to make an inspection for determining compliance with the requirements of each applicable administrative regulation for which the health facility or health service is licensed under 902 KAR Chapter 20 or 906 KAR Chapter 1.

3.

a. Denial of access, including any effort to delay, interfere with, or obstruct an effort by a representative of the Office of Inspector General to enter the health facility or health service, or deny access to records relevant to the inspection, unless deemed confidential by 42 U.S.C. 299b-22(a), shall result in disciplinary action, including denial, revocation, modification, or suspension of the license of the health facility or health service.

b. Denial, revocation, modification, or suspension of a health facility's or health service's license shall be subject to appeal pursuant to KRS 216B.105.

(c) An inspection of a health facility or health service licensed under 902 KAR Chapter 20 or 906 KAR Chapter 1 shall comply as follows:

1. The inspection shall be made at any time during the licensee's hours of operation;

2. The inspection shall be limited to ensure compliance with the standards set forth in 902 KAR Chapter 20, 906 KAR Chapter 1, KRS Chapter 216, or KRS Chapter 216B; and

3. The inspection of a health facility or health service based on a complaint or a follow-up visit shall not limit the scope of the inspection to the basis of the complaint or the implementation of a plan of correction.

(13) Violations.

(a) The Office of Inspector General shall notify a health facility or health service in writing of a regulatory violation identified during an inspection.

(b) The health facility or health service shall submit to the Office of Inspector General, within ten (10) days of the notice, a written plan for the correction of the regulatory violation.

1. The plan shall be signed by the health facility's or health service's administrator, the licensee, or a person designated by the licensee and shall specify:

a. The date by which the violation shall be corrected;

b. The specific measures to be utilized to correct the violation; and

c. The specific measures to be utilized to ensure the violation will not recur.

2. The Office of Inspector General shall review the plan and notify the health facility or health service in writing of the decision to:

a. Accept the plan;

b. Not accept the plan; or

c. Deny, suspend, or revoke the license for a substantial regulatory violation in accordance with KRS 216B.105(2).

3. The notice specified in subparagraph 2.b. of this paragraph shall:

a. State the specific reasons the plan is unacceptable; and

b. Require an amended plan of correction within ten (10) days of receipt of the notice.

4. The Office of Inspector General shall review the amended plan of correction and notify the health facility or health service in writing of the decision to:

a. Accept the plan;

b. Deny, suspend, or revoke the license for a substantial regulatory violation in accordance with KRS 216B.105(2); or

c. Require the health facility or health service to submit an acceptable plan of correction.

5. A health facility or health service that fails to submit an acceptable amended plan of correction may be notified that the license will be denied, suspended, or revoked in accordance with KRS 216B.105(2).

(14) A license shall:

(a) Expire one (1) year from the effective date, unless otherwise expressly provided in the license certificate; and

(b) Be renewed in the form of a validation letter if the licensee:

1. Submits a completed licensure application;

2. Pays the prescribed fee;

3. Has no pending adverse action; and

4. Unless exempted, has responded to requests from the cabinet for:

a. Annual utilization surveys; and

b. Requests for information regarding health services provided.

(15) Except for a Level I psychiatric residential treatment facility licensed pursuant to the exception established in 902 KAR 20:320, Section 3(2), more than one (1) license shall not be issued or renewed for a particular licensure category at a specific location.

(16) Written notice shall be filed with the Office of Inspector General within thirty (30) calendar days of the effective date of a change of ownership. A change of ownership for a license shall:

(a) Be deemed to occur if more than twenty-five (25) percent of an existing health facility or health service or equity or voting rights of a legal entity is purchased, leased, or otherwise acquired by one (1) or more persons or legal entity from another; and

(b) Not require the issuance of a provisional license.

(17) The licensee shall fully disclose to the cabinet the name, mailing address, email address, and phone number, or a change in the name, mailing address, email address, or phone number of:

(a) Each person or legal entity having an ownership interest in the health facility or health service; and

(b)

1. Each officer or director if organized as a corporation, limited liability company, or other legal entity; or

2. Each partner if organized as a partnership.

(18) An individual, shareholder, partner, member, or legal entity shall not acquire a significant financial interest in any licensed health facility or health service if that individual, shareholder, partner, member, or legal entity previously held a significant financial interest in a licensed facility that had its license or certificate to operate denied, suspended, revoked, or voluntarily relinquished, within the preceding seven (7) years, as the result of an investigation or adverse action that placed patients, residents, or clients at risk of death or serious harm.

(19) An unannounced inspection shall be conducted:
(a) In response to a relevant complaint or allegation; and
(b) According to procedures established in subsection (12) of this section.
(20) A licensee that does not have a pending adverse action, but fails to submit a completed licensure application annually shall cease operating the health facility or health service unless:
(a) The items required under subsection (14)(b) of this section have been tendered; and
(b) The Office of Inspector General has provided the health facility or health service with a notice granting temporary authority to operate pending submission of the application.
(21) Credentialing and Re-credentialing. A licensed health facility or health service that is required by KRS 216B.155(2) to assess the credentials of health care professionals applying for privileges shall use Form KAPER-1, Part B, incorporated by reference in 806 KAR 17:480.
(22) Licensure exemptions.
(a) A facility shall be exempt from licensure if it meets the criteria established by KRS 216B.020(2) or (3).
(b) A federally certified rural health clinic or a federally qualified health center that provides services to patients with behavioral health or psychiatric conditions, including substance use disorders, shall:
1. Be exempt from licensure in accordance with KRS 216B.020(2) and (3); and
2. Not be subject to licensure in a separate category under 902 KAR Chapter 20 or 908 KAR Chapter 1.

Section 3. Fee Schedule.

License Type	Rate
(a) Hospitals plans and specifications review	$.10 per sq. ft.
(initial through final)	$200 minimum
(b) All other health facilities plans and specifications review	$.10 per sq. ft.
(initial through final)	$200 minimum

(1)
(a) Fees for review of plans and specifications for construction or renovation of health facilities shall be as follows:
(b) A request for review of plans and specifications shall be submitted on the Program Review Fee – Worksheet Health Facility Identification form, accompanied by payment described in paragraph (a) of this subsection.
(2) Initial and Annual fees. The initial and annual licensure fee for health facilities and services shall be as follows:

License Type	Rate
(a) Freestanding birth center	$500
(b) Alzheimer's nursing home	For Alzheimer's nursing facilities with 50 beds or less, $750 + $25 per bed; For Alzheimer's nursing facilities with 51 or more beds, $1,000 + $25 per bed
(c) Ambulatory surgical center	$750

(d) Chemical dependency treatment service	$1,000 + $25 per bed
(e) Community mental health center	$1,500
(f) Day health care	$170
(g) Family care home	$42
(h) Group home for individuals with an intellectual or developmental disability	$100
(i) Home health agency	$500
(j) Hospice	$500
(k) Hospital	
1. Deemed hospital	For deemed hospitals with 25 beds or less, $750 + $25 per bed; For deemed hospitals with 26 or more beds, $1,000 + $25 per bed
2. Non-deemed hospital	For non-deemed hospitals with 25 beds or less, $750 + $25 per bed; For non-deemed hospitals with 26 or more beds, $1,000 + $25 per bed
(l) Intermediate care facility	For intermediate care facilities with 50 beds or less, $750 + $25 per bed; For intermediate care facilities with 51 or more beds, $1,000 + $25 per bed
(m) ICF/IID facility	For ICFs/IID with 50 beds or less, $750 + $25 per bed; For ICFs/IID with 51 or more beds, $1,000 + $25 per bed
(n) Nursing facility	For nursing facilities with 50 beds or less, $750 + $25 per bed; For nursing facilities with 51 or more beds, $1,000 + $25 per bed
(o) Nursing home	For nursing homes with 50 beds or less, $750 + $25 per bed; For nursing homes with 51 or more beds, $1,000 + $25 per bed
(p) Ambulatory care clinic	$500
(q) Personal care home	$100 + $5 per bed
(r) Psychiatric hospital	
1. Deemed hospital	For deemed psychiatric hospitals with 25 beds or less, $750 + $25 per bed; For deemed psychiatric hospitals with 26 or more beds, $1,000 + $25 per bed

2. Non-deemed hospital	For non-deemed psychiatric hospitals with 25 beds or less, $750 + $25 per bed; For non-deemed psychiatric hospitals with 26 or more beds, $1,000 + $25 per bed
(s) Psychiatric residential treatment facility	$500
(t) Renal dialysis facility	$35 per station + $350 per facility
(u) Hospital-owned pain management clinic	$500
(v) Freestanding or mobile technology	$500
(w) Comprehensive physical rehabilitation hospital	
1. Deemed hospital	For deemed hospitals with 25 beds or less, $750 + $25 per bed; For deemed hospitals with 26 or more beds, $1,000 + $25 per bed
2. Non-deemed	For non-deemed hospitals with 25 beds or less, $750 + $25 per bed; For non-deemed hospitals with 26 or more beds, $1,000 + $25 per bed
(x) Critical access hospital	$750 + $25 per bed
(y) Private duty nursing agency	$500
(z) Residential hospice facility	$500
(aa) Prescribed Pediatric Extended Care Facility	$500
(bb) Outpatient health care center	$500

(3) Change in status of a licensed health facility.

(a) Name change or change of facility administrator. If a health facility changes the name of the facility as set forth on its license or the facility administrator changes, the licensee shall notify the Office of Inspector General of the facility's new name or new administrator within ten (10) calendar days of the effective date of the name change or administrator change.

(b) Change of location.

1. If a health facility or one (1) of its extensions or satellites changes location and certificate of need approval is not required prior to relocation, the licensee shall notify the Office of Inspector General of the new location within ten (10) calendar days of the effective date of the change.

2. The Office of Inspector General shall conduct an on-site inspection for a change of location if the facility is one (1) of the following levels of care:

a. Freestanding birth center;
b. Alzheimer's nursing home;
c. Ambulatory surgical center;
d. Chemical dependency treatment service;
e. Group home;
f. Non-deemed hospital;
g. Intermediate care facility;
h. Intermediate care facility for individuals with an intellectual or developmental disability (ICF/IID);
i. Nursing facility;
j. Nursing home;
k. Personal care home;
l. Psychiatric residential treatment facility;
m. Renal dialysis facility;
n. Residential hospice facility;
o. Outpatient health care clinic; or
p. Abortion facility.

(4)

(a) Failure to renew a license by the annual renewal date shall result in a late penalty equal to twenty (20) percent of the renewal fee or twenty-five (25) dollars, whichever amount is greater.

(b) Continual failure to submit a completed and accurate renewal application or fee by the date specified by the cabinet may result in an enforcement action.

Section 4. Existing Facilities With Waivers.

(1) The Inspector General shall deem an existing health facility to be in compliance with a facility specification requirement, even though the health facility does not meet fully the applicable requirement, if:

(a) The Inspector General has previously granted, to the health facility, a waiver for the requirement;

(b) The health facility is licensed by the cabinet;

(c) The health facility is in good standing; and

(d) The waived requirement does not adversely affect the health, safety, or welfare of a resident or patient.

(2) If the Inspector General determines that the waived requirement has adversely affected patient or resident health, safety or welfare, then:

(a) The Inspector General shall notify the health facility of the findings and the need to comply with the applicable administrative regulations; and

(b) The health facility shall submit a written plan to ensure compliance, pursuant to Section 2(13)(b) of this administrative regulation.

Section 5. Variances.

(1) The Inspector General may grant a health facility a variance from a facility specification requirement if the facility establishes that the variance will:

(a) Improve the health, safety, or welfare of a resident or patient; or

(b) Promote the same degree of health, safety, or welfare of a resident or patient as would prevail without the variance.

(2) A health facility shall submit a request for a variance, in writing, to the Office of Inspector General. The request shall include:

(a) All pertinent information about the facility;

(b) The specific provision of the administrative regulation affected;

(c) The specific reason for the request; and

(d) Evidence in support of the request.

(3) The Inspector General shall review and approve or deny the request for variance. The Inspector General may request additional information from the health facility as is necessary to render a decision. A variance may be granted with or without a stipulation or restriction.

(4) The Inspector General shall revoke a variance previously granted if the Inspector General determines the variance has not:

(a) Improved the health, safety, or welfare of a patient or resident; or

(b) Promoted the same degree of health, safety, or welfare of a patient or resident that would prevail without the variance.

1. The Inspector General shall notify the health facility of a decision to revoke a variance and the need to comply with the applicable regulatory requirement.

2. The health facility shall submit a written plan to ensure compliance, pursuant to Section 2(13)(b) of this administrative regulation.

Section 6. Variance Hearings.

(1)

(a) A health facility dissatisfied with a decision to deny, modify, or revoke a variance or a request for a variance may file a written request for a hearing with the Secretary of the Cabinet for Health and Family Services.

(b) The request shall be received by the secretary within twenty (20) days of the date the health facility receives notice of the decision to deny, modify, or revoke the variance or request for a variance.

(2) An administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 7. Adverse Action Procedures.

(1) A health facility or health service that has received a preliminary order to close or other notice of adverse action:

(a) Shall receive a duplicate license from the Office of Inspector General indicating that the health facility or health service has an adverse action pending;

(b) Shall post the duplicate license in place of the original license;

(c) Shall be subject to periodic inspections by the inspecting agency to investigate complaints and ensure patient safety; and

(d) May continue to operate under duplicate license pending completion of the adverse action process, if patients and residents are not subjected to risk of death or serious harm.

(2) Until all appeals pursuant to KRS 216B.105 of the pending adverse action have been exhausted, the health facility or health service shall not have its:

(a) License renewed; or

(b) Duplicate license replaced.

Section 8. Denial and Revocation.

(1) The cabinet shall deny or revoke a license if it finds that:

(a) In accordance with KRS 216B.105(2), there has been a substantial failure by the health facility or health service to comply with the provisions of:

1. KRS Chapter 216B; or

2. The administrative regulations applicable to the health facility's or health service's license;

(b) The health facility or health service fails to submit an acceptable plan of correction or fails to submit an acceptable amended plan of correction within the timeframes required by Section 2(13) of this administrative regulation;

(c) The health facility or health service fails to comply with the annual renewal process described by Section 2(14) of this administrative regulation; or

(d) The health facility or health service denies access to the Office of Inspector General pursuant to Section 2(12)(b) of this administrative regulation.

(2) The denial or revocation of a health facility's or health service's license shall be issued pursuant to KRS 216B.105(2).

(3) Notice of the denial or revocation shall set forth the particular reasons for the action.

(4) In accordance with KRS 216B.105(2), the denial or revocation shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within the thirty (30) day period, files a request in writing for a hearing with the cabinet.

(5) Pursuant to KRS 216B.050, the cabinet may compel obedience to its lawful orders.

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form OIG 001, "Application for License to Operate a Health Facility or Health Service", July 2018;

(b) Form OIG 002, "Application for License to Operate a Chemical Dependency Treatment Service, Group Home, Psychiatric Residential Treatment Facility, or Residential Hospice Facility", January 2017;

(c) Form OIG 003, "Application for License to Operate a Hospital", January 2017;

(d) Form OIG 004, "Application for License to Operate a Home Health Agency, Non-Residential Hospice, or Private Duty Nursing Agency", January 2017;

(e) Form OIG 005, "Application for License to Operate a Renal Dialysis Facility, Freestanding or Mobile Technology, or Hospital-owned Pain Management Clinic", July 2018;

(f) Form OIG 006, "Application for License to Operate a Long Term Care Facility", January 2017;

(g) Form OIG 007, "Application for License to Operate a Family Care Home", January 2017; and

(h) Form OIG PR-1, "Program Review Fee – Worksheet Health Facility Identification Form", June 2014.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

(902 KAR 020:008. 8 Ky.R. 218; 493; eff. 2-1-1982; 9 Ky.R. 61; eff. 8-11-1982; 745; eff. 1-6-1983; 1055; eff. 4-6-1983; 1325; eff. 7-6-1983; 11 Ky.R. 465; 730; eff. 12-11-1984; 13 Ky.R. 1131; eff. 2-10-1987; 14 Ky.R. 1870; 2031; eff. 4-14-1988; 17 Ky.R. 133; eff. 9-13-1990; 3536; eff. 7-17-1991; 23 Ky.R. 3624; 4135; eff. 6-16-1997; 24 Ky.R. 1786; 2378; eff. 5-18-1998; 27 Ky.R. 3166; 28 Ky.R. 90; eff. 7-16-2001; 29 Ky.R. 1896; 2471; eff. 4-11-2003; 30 Ky.R. 434; 868; eff. 10-15-2003; 41 Ky.R. 194; 809; eff. 12-17-2014; 43 Ky.R. 801, 1421, 15669; eff. 3-31-2017; 45 Ky.R. 474, 1022; eff. 11-2-2018; Crt eff. 9-3-2025.)