

1    BOARDS AND COMMISSIONS

2    Kentucky Board of Veterinary Examiners

3    (New Administrative Regulation)

4    201 KAR 16:612. Notice to Comply (NOC) and Notice of Violation (NOV).

5    RELATES TO: KRS 321.187, 321.190, 321.203, 321.205, 321.207, 321.208, 321.211, 321.221,  
6    321.235, 321.236, 321.352, 321.441, 321.442, 321.443, 321.990

7    STATUTORY AUTHORITY: KRS 321.235(1)(b), 321.235(2)(h)

8    NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(2)(h) authorizes the board to  
9    issue a notice to comply (NOC) or a notice of violation (NOV) to any person for violations of  
10   KRS Chapter 321. KRS 321.235(1)(b) requires the board to promulgate administrative  
11   regulations to implement KRS Chapter 321. This administrative regulation establishes the  
12   process and effect of issuing a NOC and a NOV.

13   Section 1. Notice to Comply (NOC).

14       (1) The board, or an employee or agent of the board, may issue a NOC to any person or  
15   business for violation of any provision of KRS Chapter 321 or administrative regulations  
16   promulgated by the board thereunder.

17       (2) A NOC may also be issued during an inspection to request additional information  
18   needed to determine compliance or as a notice to correct a minor violation found during the  
19   inspection. The failure to provide the information requested or to correct the violation within the  
20   time allotted may result in a notice of violation being issued.

21       (3) A NOC from the board shall contain the following items:

- 1 (a) The name and address of the person or business to whom it is issued;
- 2 (b) A description of any information that is being requested;
- 3 (c) A citation to any statutory or regulatory requirement has been or may be violated;
- 4 (d) A description of the circumstances surrounding any violation or possible violation for  
5 which additional information is requested;
- 6 (e) Measures required to comply with the NOC;
- 7 (f) A reasonable time for compliance; and
- 8 (g) Notice that failure to take required action may result in the issuance of a notice of  
9 violation;
- 10 (h) Identification of the board's agent issuing the form; and
- 11 (i) Date the NOC was issued.

12 (4) A notice to comply may be issued in tangible or electronic form.

13 Section 2. Notice of Violation (NOV).

14 (1) The board, or an employee or agent of the board, may issue a NOV to any person for  
15 violation of any provision of KRS Chapter 321 or administrative regulations promulgated by the  
16 board thereunder.

17 (2) A NOV establishes that a violation of statute or administrative regulation exists and  
18 that a business or person is operating in violation of the law and is subject to penalty pursuant to  
19 KRS Chapter 321.

20 (3) Each day or part of a day that a violation continues is a separate violation subject to  
21 daily penalties.

22 (4) A NOV from the board shall contain the following items:

23 (a) The name and address of the person or business to whom it is issued;

1 (b) A citation to the statutory or regulatory requirement or requirements that have been  
2 violated;

3 (c) A description of the circumstances surrounding the violation or violations, set forth in  
4 common and concise language;

5 (d) Measures required to correct each violation;

6 (e) Notice that each day or part of a day that a violation continues is a separate violation;

7 (f) Notice of the penalty for the violation or violations for which the notice was issued;

8 (g) A reasonable time for correction, if the respondent cannot take measures to correct the  
9 violation immediately;

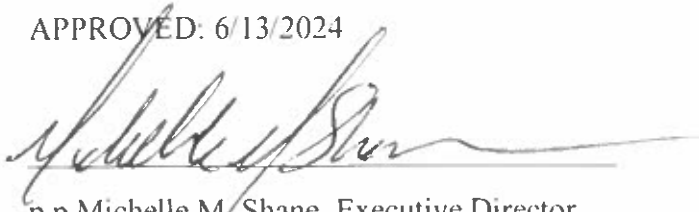
10 (h) Identification of the board's agent issuing the notice;

11 (i) Date the NOV was issued; and

12 (j) Notice of rights of appeal.

13 (5) A notice of violation may be issued in tangible or electronic form.

APPROVED: 6/13/2024



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

9/12/2024

Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on November 22, 2024, at 1:00 pm EST, at the offices of the Kentucky Board of Veterinary Examiners, 4047 Iron Works Pkwy, Suite 104, Lexington, KY 40511. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, KY 40511, Phone: 502-564-5433, Fax: 502-753-1458, Email: [Michelle.Shane@ky.gov](mailto:Michelle.Shane@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

201 KAR 016:612

Contact Person: Michelle M. Shane

Phone: 502-564-9905

Email: Michelle.Shane@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the process and effect of issuing a notice to comply (NOC) and a notice of violation (NOV).

(b) The necessity of this administrative regulation:

This new administrative regulation is necessary to establish process and effect of issuing a notice to comply (NOC) and a notice of violation (NOV) as authorized by KRS 321.235(1)(b) and 321.235(2)(h).

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

KRS 321.235(1)(b) requires the board to promulgate administrative regulations to implement KRS Chapter 321. KRS 321.235(2)(h) empowers the board to issue NOV's and NOCs.

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

This new administrative regulation will assist in effective administration by clearly expressing what fees have been approved by providing transparent requirements so constituents may be aware of this aspect of the enforcement process.

(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:

N/A. This is a new administrative regulation.

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

N/A. This is a new administrative regulation.

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

N/A. This is a new administrative regulation.

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

N/A. This is a new administrative regulation.

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

Fines are applicable to all credential holders of the board (approx. 3,500 licenses) and all non-credential holders who violate KRS Chapter 321 or 201 KAR Chapter 16.

- (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:

All persons or entities shall be required to comply with KRS Chapter 321 and 201 KAR Chapter 16, or they may be subject to the issuance of an NOC or NOV 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):

If a person or entity complies with KRS Chapter 321 and 201 KAR Chapter 16, there shall be no costs assessed.

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

If a person or entity complies with the law, there shall be no fines assessed.

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

- (a) Initially: There will be no increase in costs because a program already exists to enforce KRS Chapter 321 and 201 KAR Chapter 16. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

- (b) On a continuing basis: The KBVE expects costs for all board operations to be approximately \$900,000 annually in future bienniums as new programming is brought online, per the mandates in the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321.

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

KBVE does not receive any general funds. All funds for the agency come from licensing fees, service fees, and administrative fines.

- (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 will be no increase in fees to run KBVE's enforcement program.

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

This regulation does not establish or increase any fees, directly or indirectly.

(9) TIERING: Is tiering applied?

Tiering is not applied because this new administrative regulation applies to all KBVE credential holders and public entities and other persons within the Commonwealth of Kentucky.



## FISCAL IMPACT STATEMENT

201 KAR 016:612

Contact Person: Michelle M. Shane

Phone: 502-564-9905

Email: Michelle.Shane@ky.gov

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

KRS 321.235(1)(b) and 321.235(2)(h).

- (2) Identify the promulgating agency and any other affected state units, parts, or divisions:

The promulgating agency is the Kentucky Board of Veterinary Examiners. There are no other affected state units, parts, or divisions.

- (a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

- (b) How will expenditures, revenues, or cost savings differ in subsequent years?

Staff time and database management will be required for record keeping. Costs will be minimal.

- (3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

County animal control agencies or animal shelters may be impacted if they fail to follow the law as established in KRS Chapter 321 and 201 KAR Chapter 16.

- (a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Staff time and database management will be required for record keeping. Costs will be minimal.

(4) Identify additional regulated entities not listed in questions (2) or (3):

KBVE does not anticipate that any other regulated entities will be impacted. However, any person or entity found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16 may be subject to issuance of an NOC or NOV by the KBVE.

(a) Estimate the following for the first year:

Expenditures: KBVE has an established enforcement program, and there will not be additional expenditures as a result of this filing. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: Revenue shall only be generated by this filing if entities fail to comply with the law.

Cost Savings: There will be no cost savings; this new administrative regulation simply codifies the requirements, making them easily accessible for all citizens and regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Staff time and database management will be required for record keeping. Costs will be minimal.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

Fines shall be pooled in KBVE's general account and be used to pay programmatic costs; these costs are shared across board operations to keep fees as low as possible. Costs include overhead, staffing and benefits, database usage and maintenance, contractors, legal counsel, etc. All fees and fines shall ensure that the board and its staff remain operational, efficient, and responsive to both the public and constituent needs, while also implementing and enforcement the mandates within the modernized Kentucky Veterinary Medicine Practice Act, KRS Chapter 321. It is unknown how much revenue these fines are anticipated to generate because it is unknown how many entities will be found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16.

(b) Methodology and resources used to determine the fiscal impact:

A large spreadsheet was used to calculate all board revenues, expenditures, proposed fees, and estimated quantities of applications based on historical numbers. Projections were calculated ten (10) years out to F.Y. 2036. However, fines were not included in projections because it is unknown how many entities will be found to be in violation of KRS Chapter 321 or 201 KAR Chapter 16.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

This new regulation shall not have a "major economic impact", as defined in KRS 13A.010(13). The fines from NOVs are minimal and are used for board operations and ongoing enforcement of KRS Chapter 321 and 201 KAR Chapter 16 pursuant to KRS 321.235(1)(a).

(b) The methodology and resources used to reach this conclusion:

"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)]

Fines from NOVs issued pursuant to this new administrative regulation will be no more than \$1,000 per instance per day.