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Emily B. Caudill
REGULATIONS COMPILER

1 BOARDS AND COMMISSIONS

2 Kentucky Board of Veterinary Examiners

3 (New Administrative Regulation)

4 201 KAR 16:614. Fines.

5 RELATES TO: KRS 321.352, 321.990

6 STATUTORY AUTHORITY: KRS 321.235(1)(b), 321.352(1), (5)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.352(1) requires the board to
8 establish the amounts, limits, or ranges for any fines imposed under KRS Chapter 321 through
9 the promulgation of administrative regulations. KRS 321.235(1)(b) requires the board to
10 promulgate administrative regulations to implement and enforce KRS Chapter 321 and 201 KAR
11 Chapter 16. This administrative regulation establishes the amounts, limits, or ranges for all fines
12 imposed under KRS Chapter 321.

13 Section 1. Mandatory Fines. (1) A person who, for practicing or performing services without a
14 credential issued by the board, violates or aids in the violation of:

- 15 (a) KRS 321.190 shall be fined per violation per day for practice as a veterinarian:
- 16 1. For the first offense in an amount of not less than \$250 and not more than \$500;
 - 17 2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;
- 18 (#) KRS 321.190 shall be fined per violation per day for practice as a veterinary
19 technician:
- 20 1. For the first offense in an amount of not less than \$100 and not more than \$250;
 - 21 2. For subsequent offenses in an amount of not less than \$250 and not more than \$500;

1 (b) KRS 321.201 shall be fined per violation per day for the veterinarian supervisor and
2 the individual acting as a special permittee,

3 1. For the first offense in an amount of not less than \$250 and not more than \$500;

4 2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

5 (c) KRS 321.207 shall be per violation per day for the animal control agency, the
6 designated on-site manager, and the individual acting as an animal euthanasia specialist,

7 1. For the first offense in an amount of not less than \$50 and not more than \$150;

8 2. For subsequent offenses in an amount of not less than \$150 and not more than \$300;

9 (d) KRS 321.211 shall be fined per violation per day:

10 1. For the first offense in an amount of not less than \$250 and not more than \$500;

11 2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

12 (e) KRS 321.236 shall be fined per violation per day for the veterinarian manager and the
13 registered responsible party,

14 1. For the first offense in an amount of not less than \$250 and not more than \$500;

15 2. For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

16 (f) KRS 321.441 shall be fined per violation per day,

17 1. For the first offense in an amount of not less than \$100 and not more than \$250;

18 2. For subsequent offenses in an amount of not less than \$250 and not more than \$500;

19 (g) KRS 321.442 shall be fined per violation per day:

20 1. For the first offense in an amount of not less than \$100 and not more than \$250;

21 2. For subsequent offenses in an amount of not less than \$250 and not more than \$500;

1 (2) A person who is issued a notice of violation by the board for failure to comply with
2 KRS Chapter 321 or an administrative regulation promulgated thereunder shall be fined in the
3 amount per violation per day.

4 (a) For the first offense in an amount of not less than \$100 and not more than \$250;

5 (b) For subsequent offenses in an amount of not less than \$250 and not more than \$500;

6 (3) A person who exercises or attempts to exercise control over, interferes with, or
7 attempts to influence the professional judgment of a credential holder in any manner, including
8 through coercion, collusion, extortion, inducement, or intimidation shall be fined per violation
9 per day:

10 (a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

11 (b) For subsequent offenses in an amount of not less than \$1,000 and not more than
12 \$2,500;

13 (4) A person who violates any ruling of the board or hinders any agent of the board in
14 carrying out the duties assigned to the agent shall be fined per violation per day:

15 (a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

16 (b) For subsequent offenses in an amount of not less than \$1,000 and not more than
17 \$2,500;

18 (5) A person who is an officer who refuses to enforce the provisions of this chapter when
19 called upon by the board to do so shall be fined per violation per day:

20 (a) For the first offense in an amount of not less than \$100 and not more than \$250;

21 (b) For subsequent offenses in an amount of not less than \$250 and not more than \$500;

22 (6) A person who attempts in any way to hinder or obstruct the board in carrying out the
23 provisions of KRS Chapter 321 shall be fined per violation per day:

1 (a) For the first offense in an amount of not less than \$100 and not more than \$500;

2 (b) For subsequent offenses in an amount of not less than \$500 and not more than \$1,000;

3 (7) A person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in
4 any other manner interferes with an agent of the board or who willfully refuses to obey their
5 lawful order shall be fined per violation per day:

6 (a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

7 (b) For subsequent offenses in an amount of not less than \$1,000 and not more than
8 \$2,500;

9 Section 2. Permissive Fines. (1) The board may impose an additional fine per violation per day
10 for a person who is convicted under KRS 321.990:

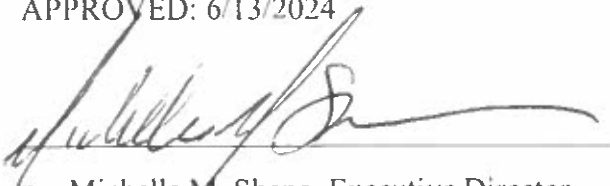
11 (a) For the first offense in an amount of not less than \$500 and not more than \$1,000;

12 (b) For subsequent offenses in an amount of not less than \$1,000 and not more than
13 \$2,500;

14 (2) The board may impose an additional fine for any violation of the Kentucky Veterinary
15 Medicine Practice Act that consists of an amount equal to the cost of investigative and legal fees,
16 court reporters, expert witnesses, administrative hearing officers, and all related costs incurred by
17 the board in processing the case.

18 Section 3. Continuing Violation. (1) Each day or part of a day that a violation continues is a
19 separate violation and subject to additional fines per day.

APPROVED: 6/13/2024

A handwritten signature in black ink, appearing to read "Michelle M. Shane", written over a horizontal line.

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

A handwritten date "9/12/2024" written in black ink over a horizontal line.

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

201 KAR 016:614

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 amounts, limits, or ranges for all fines imposed under KRS Chapter 321.

(b) The necessity of this administrative regulation:

Establishing the fine amounts in administrative regulation shall ensure transparency of the rules and equitable application of the fines.

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

KRS 321.352(1) requires the board to establish the amounts, limits, or ranges for any fines imposed under KRS Chapter 321 through the promulgation of administrative regulations. KRS 321.235(1)(b) requires the board to promulgate administrative regulations to implement and enforce KRS Chapter 321.

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

This regulation makes clear the established fine amounts for violations of KRS Chapter 321 and 201 KAR Chapter 16.

(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 a fine.

- (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 016:614

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), 321.352(1), (5)

- (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 fines assessed 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:

Running an administrative program mandated by the General Assembly costs money. 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 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 this administrative regulation will be no more than \$1,000 per instance per day.