

1 BOARDS AND COMMISSIONS

2 Board of Veterinary Examiners

3 (Amended After Comments)

4 201 KAR 16:731. Examination requirements for AAHP providers.

5 RELATES TO: KRS 321.175, 321.181(1)-(4), 321.235

6 STATUTORY AUTHORITY: KRS 321.175(2)(c), (5), 321.181(1)-(4), 321.235(1)(a)-(c), (2)(b)2.

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(1)(b) requires~~[and (2)(b)~~
8 ~~authorize]~~ the board to promulgate administrative regulations in accordance with KRS Chapter
9 13A to effectively carry out and enforce the provisions of the Kentucky Veterinary Medicine
10 Practice Act. KRS 321.235(2)(b)2. authorizes~~[requires]~~ the Kentucky Board of Veterinary
11 Examiners to establish examination requirements and passing scores for allied animal health
12 professionals. This administrative regulation establishes examination requirements as one (1) part
13 of the requirements to qualify for an allied animal health professional (AAHP) permit from the
14 board.

15 Section 1. State Exam Qualifications for Allied Animal Health Professional providers.

16 (1) The board shall require a passing score on the Kentucky Board of Veterinary Examiners
17 Jurisprudence Examination for AAHPs as one (1) requirement for permitting by the board as an
18 allied animal health professional.

19 (2) Candidates seeking an AAHP permit shall pay a state examination fee pursuant to 201 KAR
20 16:513.

21 (3) Candidates shall successfully complete the Kentucky Board of Veterinary Examiners

1 Jurisprudence Examination for AAHPs, which shall cover the specific requirements of KRS
2 Chapter 321 and 201 KAR Chapter 16, in either paper or electronic format.

3 (4) To successfully complete the Kentucky Board of Veterinary Examiners Jurisprudence
4 Examination for AAHPs, applicants~~[Applicants]~~ for an AAHP permit shall be required to
5 achieve a score of eighty (80) percent or higher.

6 Section 2. National Exam Qualifications for Allied Animal Health Professionals.

7 (1) The examination required for permitting by the board as an allied animal health professional
8 shall be the successful completion of a certification exam required by an approved allied animal
9 health professional program, pursuant to 201 KAR 16:730.

10 (a) A candidate shall be limited to five (5) examination attempts.


11 (b) An official score report, verified certificate of completion, or other official documentation from
12 the certifying body shall be provided directly from the certifying body to the board to provide
13 proof of successful completion of the board approved exam.

14 (2) For AAHP animal chiropractic~~[chiropractor]~~ providers, the board approved examinations
15 and passing scores are as established in paragraphs (a) and (b) of this subsection~~[this~~
16 ~~paragraph]~~.

17 (a) The American Veterinary Chiropractic Association (ACVA) passing score shall be the passing
18 score set by ACVA.

19 (b) The International Veterinary Chiropractic Association (ICVA) passing score shall be the
20 passing score set by ICVA.

21 (3) Applicants for an AAHP permit to the board shall pay any required national exam or score
22 transfer fees directly to the approved allied animal health professional program, their designee,
23 or official records custodian.


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


Date

APPROVED BY AGENCY: 4/25/2024, with updates 1/30/2025

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 201 KAR 016:731

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 examination requirements as one part of the requirements to qualify for an allied animal health professional (AAHP) permit from the board.

(b) The necessity of this administrative regulation:

This regulation is necessary to establish the required examinations needed for applicants to qualify for an AAHP permit from the board.

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

KRS 321.235(1)(b) and (2)(b) authorize the board to promulgate administrative regulations in accordance with KRS Chapter 13A to effectively carry out and enforce the provisions of the Kentucky Veterinary Medicine Practice Act. KRS 321.235(2)(b)2. requires the Kentucky Board of Veterinary Examiners to establish examination requirements and passing scores for allied animal health professionals.

(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 defining the testing requirements for AAHP permittees as approved by the KBVE.

(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:

Future applicants to the board for an AAHP permit. The board anticipates receiving approximately 20 initial applications for this credential under the new laws, and one-two (1-2) annually in future years.

(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:

Applicants will be required to complete a board approved AAHP exam within the approved scope for the AAHP work to qualify for permitting as an AAHP in Kentucky.

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

There will not be any additional costs to the applicant. This administrative regulation simply clarifies the testing requirements needed to obtain an AAHP permit and provide public protection related to competency to preform services.

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

Applicants who complete the required AAHP exams shall have met one of the requirements of the board for permitting as an AAHP.

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

(a) Initially:

The KBVE currently runs licensing and certificate programs for other credentials to ensure competency to practice for public protections. This program will be added to the current operations. 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 is no anticipation of an increase in fees to implement this administrative regulation, as the KBVE is already running an administrative program to process applications and an enforcement program to ensure compliance.

(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 entities holding an AAHP permit.

FISCAL IMPACT STATEMENT

Regulation Number: 201 KAR 016:731

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 321.175(2)(c), (5), 321.181(1)-(4), 321.235(1)(a)-(c), (2)(b)2.

(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: This is a new program, but will not generate much revenue. The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term.

Revenues: There is no revenue generated by this filing.

Cost Savings: There will be no cost savings; this amendment simply codifies the requirements, making them easily accessible for 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):

KBVE does not anticipate that any local entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

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

N/A

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

KBVE does not anticipate that any other regulated entities will be impacted.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

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

N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation does not set fees and will not bring in revenue. Local entities will not be impacted by this regulation. This filing only impacts candidates for permitting as an allied animal health professional (AAHP).

(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.

(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 administrative regulation shall not have a “major economic impact”, as defined in KRS

13A.010(13). This administrative regulation does not set fees and will not bring in revenue.

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

This amendment will not have a negative impact, as no fees are established or collected as a part of this administrative regulation.

STATEMENT OF CONSIDERATION

RELATING TO 201 KAR 16:731

BOARDS AND COMMISSIONS

Kentucky Board of Veterinary Examiners
(Amended After Comments)

I. The public hearing on 201 KAR 016:731, scheduled for December 23, 2024, at 10:00 a.m. at the offices of the Kentucky Board of Veterinary Examiners (KBVE) was held per request; however, no one appeared at the hearing. Written comments were received during the public comment period, which closed December 31, 2024.

II. The following people submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Jessica Hollis, DC	ProAnimal Chiropractic
Francisco Maia, PT, DPT, CCRT	American Physical Therapy Association – Kentucky Chapter (APTA-KY)
Avery Schroyer, PT, DPT, CMTPT	APTA-KY
Rachel Wendt, DC	Kentucky Association of Chiropractors
Agency	Kentucky Board of Veterinary Examiners

III. The following people from the promulgating administrative body responded to the written comments:

<u>Name and Title</u>
John C. Park, DVM, KBVE Chair
Gene Smith, DVM, KBVE Vice Chair
Dianne Dawes, DVM, KBVE Board Member
Tom Dorman, Citizen-at-large, KBVE Board Member
Tim Gardner, DVM, KBVE Board Member
Stephanie Kennedy, DVM, KBVE Board Member
Phil Prater, DVM, KBVE Board Member

Jennifer Quammen, DVM, KBVE Board Member
Amy Staton, EdD, LVT, KBVE Board Member
R. Steve Velasco, DVM, State Veterinarian, Proxy for KDA Commissioner Jonathan Shell
Michelle M. Shane, KBVE Executive Director
Carmine G. Iaccarino, KBVE Legal Counsel

IV. Summary of Comments and Responses

(1) Subject Matter: Jurisprudence examination requirements

(a) Comment: Dr. Wendt – The commentor stated that, following the meeting with KBVE on December 16, they were grateful to learn that the required state jurisprudence exam offered to AAHP-ACPs would be specific to the AAHP permit and not focused on veterinarian requirement in the law. The commentor further recommends that language be added to the regulation to clearly state that there will be a separate jurisprudence exam for AAHP permittees, and that this exam will focus only on statutes and regulations pertinent to the AAHP permit.

(b) Response: The Board appreciates this comment, and notes that 201 KAR 16:731 already specified in Section 1(1) and (3) that the that the Kentucky Board of Veterinary Examiners Jurisprudence Examination was “for AAHPs”. In response to this comment and to ensure clarity that this exam is for the AAHP permit class, KBVE changed the regulation to add “for AAHPs” to Section 1(4) and updated the name of the exam in 201 KAR 16:732, Section 5(1)(g) to match the name in 16:731.

(2) Subject Matter: Lack of inclusion in discussions regarding AAHP permits

(a) Comment: Dr. Maia, Dr. Schroyer – The commentors indicate the organization they represent, the American Physical Therapy Association - Kentucky Chapter (APTA-KY), were not included in stakeholder discussions regarding this administrative regulation with KBVE like the Kentucky Association of Chiropractors.

(b) Response: The KBVE began discussions with the Kentucky Board of Chiropractic Examiners (KBCE) at their request in 2020 related to multiple grievances received by that board. The Kentucky Association of Chiropractors (KAC) was invited to join the talks by the KBCE. In contrast, it should be noted that, until the letter from APTA-KY was received in response to this October 2024 filing, KBVE was not previously contacted by the APTA-KY regarding their desire to practice on animals. Further, KBVE did meet with the Kentucky Board of Physical Therapists (KBPT) in 2024, and that board has clearly indicated that they do not support licensed PTs extending their practice to work on animals. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(3) Subject Matter: Physical Therapists (PTs) should be allowed to practice on animals in Kentucky

(a) Comment: Dr. Maia, Dr. Schroyer – The commentors indicate that the American Physical Therapy Association (APTA) Animal Physical Therapy Special Interest Group (APTSIG) was founded in 1998, after PTs were working with animals since the mid-1990's. The APTSIG represents some 500 members nationally, and has released statements supporting PT work with animals. Further, in 2023, the Federation of State Boards of Physical Therapy (FSBPT) released an updated Model Practice Act which allows PTs to work on animals so long as they have the proper training as established in state rules. They further quote the commentary from the FSBPT Model Act, stating, "The practice of physical therapy continues to evolve including the treatment of animals. While there is currently no consistent standard of specified education and training, it is appropriate to note that additional rule development in a jurisdiction may address minimum standards to demonstrate competency to provide physical therapy to animals".

(b) Response: The Board would like to bring attention to the details referenced in the FSBPT Practice Act model, including that practice is allowable "as established in state rules". In Kentucky, both under the Veterinary Medicine Practice Act and the Physical Therapist Practice Act, PT work on animals is against the law. In Kentucky, only veterinarians have been authorized by the General Assembly to provide therapy to animal patients. Additionally, FSBPT notes that there is no set of consistent standards or a common national exam. This is very different from human chiropractors who complete an extensive, standardized training curriculum to work on animals through two approved sister organizations; they also take a common exam to test their competency. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(4) Subject Matter: APTSIG publication regarding PT standards for practice on animals / PT on animals is supported by national special interest groups

(a) Comment: Dr. Maia, Dr. Schroyer – The commentors state that in 2019, the APTA-APTSIG published a detailed "Clinical Practice Standards for Physical Therapy on Animals" to advance their professional work on animals and help guide federal and state organizations in this process.

(b) Response: KBVE appreciates APTA-KY bringing the APTSIG report to the Board's attention. However, it should be noted that there are many organizations that have draft model statute and regulation documents allowing practices that are not appropriate or legal in most state jurisdictions. If states allowed all of these associations to draft their own rules and then practice on animals, there would be little left of the practice of veterinary medicine for veterinarians to make a living while providing essential services of the profession to benefit public health and safety. Associations who wish to negotiate incorporation of model language into existing Practice Acts should take the initiative to contact state jurisdictions and work with stakeholder entities toward change through a multiyear process. Until the letter from APTA-KY was received

in response to this October 2024 filing, KBVE was not previously contacted by the APTA-KY regarding their desire to practice on animals.

For example, extensive talks were held 2021-2023 regarding veterinary shortages in Kentucky between stakeholders in the veterinary profession and agriculture. Discussions focused on veterinary shortages in the state, including the detrimental impact of carveouts from the practice of veterinary medicine which allowed non-veterinarians to practice in various niche areas of the profession. Through these discussions, a Veterinary Shortage Working Group (VSWG) was established by the Kentucky Department of Agriculture lead by then Commissioner Ryan Quarles. The VSWG produced a comprehensive report with multiple action recommendations to assist with shortages. As a result, in 2024 through the momentum of the VSWG and partners, a new bill was passed to establish the Kentucky Rural Veterinary Loan Repayment Program (KRVLRP), enacted as KRS 164.7895. Stakeholders working together affected a change that will over the next ten years help veterinarians earn a livable wage in rural and underserved communities.

Members of the Board believe that more carveouts from the profession do not align with the VSWG Report conclusions, and that such carveouts may worsen the veterinary shortage situation in Kentucky. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(5) Subject Matter: Animal PT programs – PT not taught to veterinarians / Rehabilitation and physical therapy should not be prohibited modalities for the AAHP permit

(a) Comment: Dr. Maia, Dr. Schroyer – The commentors state that there are currently multiple institutions in the U.S. that train and certify both veterinarians and physical therapists to work with animals, including the University of Tennessee (canine and equine programs), North Carolina State University (companion animal program), the Canine Rehabilitation Institute, the Animal Rehab Institute, and the Healing Oasis. The commentors claim that rehabilitation and physical therapy are not a part of the curriculum for any veterinary program, therefore the professionals working in this field must have completed their training through one of the listed institutions.

(b) Response: The national board exam for veterinarians tests knowledge and workforce readiness on all species (except humans). When a veterinarian enters the workforce, they typically specialize on a select few species or branch of medicine. As they do, they seek additional trainings to aid them in their focused learning objectives. Some veterinarians specialize in physical therapy and do seek additional training in this modality to enhance their already solid foundation of eight (8) years of learning about animals. Others go on to study in areas of specialty requiring four (4) or more additional years. No one is more prepared to properly provide appropriate services to animals than veterinarians.

Nonetheless, the AAHP permit was created by the General Assembly only for animal chiropractors. This was with the consideration that both the American Veterinary Chiropractic

Association (AVCA) and the International Veterinary Chiropractic Association (IVCA) offer specialized trainings to doctors in both professions, ensuring high educational standards, a rigorous certification exam, and mandatory continuing education to support ongoing learning. In Kentucky, the statutes do not allow practice on animals by physical therapists or other modalities beyond animal chiropractors. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(6) Subject Matter: PTs are allowed to provide physical therapy on animals in other states / Other state jurisdictions have laws which allow PT on animals

(a) Comment: Dr. Maia, Dr. Schroyer – The commentors state that multiple states have already included animal physical therapy as part of the Physical Therapy Practice Act, including Utah, Colorado, New Hampshire, and Oregon, whereas many other state associations have worked with their respective veterinary board to craft language in the veterinary practice for those states, including Nebraska, Nevada, Illinois.

(b) Response: State law varies by jurisdiction in accordance with the needs of each jurisdiction and the desires of the State General Assembly for that jurisdiction. What's right for one state doesn't automatically mean it fits in all other states. In Kentucky and most other states in the Union, the practice of physical therapy on animals is limited to veterinarians. Specifically in Kentucky, it is against the law for PT on animals to be practiced by a non-veterinarian or without the direct supervision of a veterinarian. The subject matter experts seated on both the Kentucky Board of Physical Therapy (KBPT) and the Kentucky Board of Veterinary Examiners (KBVE) do not support the expansion of the scope of practice for PTs to work on animals. Finally, this regulation only governs the work of qualified animal chiropractors as AAHP providers. To include physical therapy on animals under the AAHP permit would be a statutory change and involve future amended regulations. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(7) Subject Matter: PTs should be allowed to provide physical therapy on animals in Kentucky, and KBVE needs to work with / consult APTA-KY and APTA-APTSIG

(a) Comment: Dr. Maia, Dr. Schroyer – The commentors state that KBVE should work with APTA-KY and the APTA-APTSIG to provide the right for licensed, certified physical therapists to work with animals.

(b) Response: The KBVE has a meeting scheduled with APTA-KY in February 2025. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(8) Subject Matter: Conformity with KRS Chapter 13A

(a) Comment: Agency – Following legal review, the agency notes changes are necessary to conform with KRS Chapter 13A.

(b) Response: In response to this comment, the Board made edits to the regulation for clarity of intent and conformity with KRS Chapter 13A.

(9) Subject Matter: Appreciation for regulations

(a) Comment: Dr. Hollis – The commentor states they are thrilled to see the AAHP-ACP changes in the law, and thanks all of those who have contributed to the regulations.

(b) Response: Members of the Board acknowledged this comment and are interested to see how many AAHP-ACP providers register with KBVE. In response to this comment, the Board did not make any changes to the proposed administrative regulation.

V. Summary of Statement of Consideration and Action Taken by Promulgating Administrative Body

The public hearing on 201 KAR 016:731 was held per request; however, no one appeared at the hearing. Written comments were received during the public comment period. The Kentucky Board of Veterinary Examiners responded to the comment as noted above and amends the administrative regulation as follows:

Page 1

Section NECESSITY, FUNCTION, AND CONFORMITY

Line 7

After “KRS 321.235(1)(b)”, insert the following:

requires

Delete “and (2)(b) authorize”.

Page 1

Section NECESSITY, FUNCTION, AND CONFORMITY

Line 10

After “321.235(2)(b)2.”, insert the following:

authorizes

Delete “requires”.

Page 1

Section NECESSITY, FUNCTION, AND CONFORMITY

Line 12

After “one”, insert the following:

(1)

Page 1

Section 1(1)

Line 16

After “one”, insert the following:

(1)

Page 2

Section 1(4)

Line 3

After “Examination”, insert the following:

for AAHPs

After “,”, insert the following:

applicants

Delete “Applicants”.

Page 2

Section 2(2)

Line 13

After “animal”, insert the following:

chiropractic

Delete “chiropractor”.

Page 2

Section 2(2)

Line 14

After “are”, insert the following:

as

After “established in”, insert the following:

paragraphs (a) and (b) of this subsection

Delete “this paragraph”.

Page 2

Section 2(2)(a)

Line 15

After “(a)”, insert the following:

The

Page 2

Section 2(2)(b)

Line 17

After “(b)”, insert the following:

The