



1 BOARDS AND COMMISSIONS

2 Board of Veterinary Examiners

3 (Amended After Comments)

4 201 KAR 16:737. Responsibilities for AAHP providers; limitations on practice.

5 RELATES TO: KRS 321.175, 321.181(1)-(4), 321.187, 321.200, 321.203, 321.205, 321.235

6 STATUTORY AUTHORITY: KRS 321.175(2)(c), (5), 321.181(1)-(4), 321.203, 321.205,
7 321.235(1)(a)-(c) and (2)(b)2., 321.236

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(1)(b) requires the board to
9 promulgate administrative regulations to implement and enforce KRS Chapter 321 and 201 KAR
10 Chapter 16. KRS 321.235(2)(b)2. authorizes~~provides~~ the board ~~authority~~ to promulgate
11 administrative regulations to establish conditions for permitting and limitations on practice upon
12 allied animal health professional (AAHP) permittees. This administrative regulation establishes
13 the responsibilities for AAHP providers permitted by the board and limitations on their practice
14 on animal patients.

15 Section 1. Prohibitions on Practicing Veterinary Medicine.

16 (1) Except as provided for in KRS 321.200 and this administrative regulation, an allied animal
17 health professional permittee shall not practice~~be prohibited from practicing~~ veterinary
18 medicine.

19 (2) An AAHP provider shall be held to the same standard of care as a veterinarian ~~if~~when the
20 permittee provides services within the scope of practice as established ~~provider performs~~
21 ~~the procedure allowed by the scope of work described~~ in this administrative regulation.

1 Section 2. Communications with Veterinarians.

2 (1) **To ensure patient safety, an**~~[An]~~ allied animal health professional permit holder **may**~~[shall]~~
3 communicate with an animal patient's veterinarian **regarding services to be rendered by the**
4 **AAHP provider**~~[clinical encounters, as defined by 201 KAR 16:701, Section 1(1),]~~ on an
5 animal to ensure:

6 (a) Appropriate **services**~~[treatments]~~ are provided;~~;~~ and

7 (b) No concerns exist related to an animal patient's condition, **current treatment regime**, and
8 medicines.

9 (2) **If the AAHP provider does not communicate with the animal patient's veterinarian prior**
10 **to initiation of services, then in the event of an adverse outcome the liability lies solely with**
11 **the AAHP provider**~~[Should a veterinarian be non-responsive to communication from an~~
12 ~~AAHP permittee within three (3) business days, the permittee shall not be prevented from~~
13 ~~proceeding with appropriate treatment with the informed consent of the client].~~

14 (3) ~~[After each clinical encounter,]~~ AAHP permittees shall communicate findings, **services**
15 **provided**~~[treatments]~~, or relevant information to the client and the client's veterinarian within an
16 appropriate timeframe according to the condition, but no more than three (3) business days after
17 **services are rendered**~~[identification].~~

18 (4) Communication between an AAHP permittee and a veterinarian shall be recorded in the
19 medical record.

20 **(5) An AAHP permittee providing services to a patient that results in harm shall be cause**
21 **for the AAHP permittee to be liable for that harm. The patient's veterinarian shall not be**
22 **liable for harm as a result of services provided by an AAHP permittee.**

23 Section 3. Limitations on Practice.

1 (1) An AAHP permittee shall be limited in their practice on animal patients, as established in this
2 section, or the practice shall be considered the practice of veterinary medicine and subject to
3 penalty for practicing without a veterinarian license from the board.

4 (2) An AAHP permittee's practice shall not be construed to allow any of the following on animals:

5 (a) Performance of radiographs or other medical imaging;

6 (b) Performance of surgery;

7 (c) Performance of shockwave, laser, ultrasound, electrotherapy, or similar therapies;

8 (d) Rehabilitation activities;

9 (e) Prescription, dispensation, or administration of medications, supplements, or
10 nutraceuticals~~[or neutraceuticals]~~, or diet; or

11 (f) Practice of veterinary medicine outside the scope of the allied animal health professional's
12 permitted practice area.

13 (3) For AAHP permittees specializing in animal chiropractic, the applicant shall:

14 (a) Conform with applicable requirements of the Horseracing Integrity and Safety Authority
15 (HISA) and the Kentucky Horse Racing and Gaming Corporation; and

16 (b) Comply with other state and federal laws.

17 Section 4. Record Keeping. An AAHP permittee shall keep medical records on all animal patients
18 on which they practice their profession pursuant to KRS 321.187 and this section [~~of this~~
19 ~~administrative regulation~~].

20 (1) The AAHP permittee's animal patient medical records shall contain sufficient information to
21 justify and describe the course of care on the patient. The records shall contain, at a minimum:

22 (a) Name, address, and telephone number of the client, as defined in KRS 321.181(21);

23 (b) Identity of the animal patient, including name, age, sex, and breed;

- 1 (c) Name, address, and telephone number of the animal patient's veterinarian;
- 2 (d) Dates of consultations, examinations, or services provided~~(treatments)~~;
- 3 (e) Brief history of the condition of each animal ~~[treated]~~;
- 4 (f) AAHP provider findings and observations~~[Working allied animal health professional~~
- 5 ~~diagnosis]~~;
- 6 (g) Plan for services, ~~[Treatment plan]~~ including expected duration and frequency;
- 7 (h) Notations related to provided services~~[Daily treatments, including areas adjusted or~~
- 8 ~~otherwise treated]~~;
- 9 (i) Progress and disposition of the case;
- 10 (j) Name of the practitioner or practitioners~~[practitioner(s)]~~ providing service to the patient;
- 11 (k) Name and contact information of any person consulted for medical advice regarding~~[on the~~
- 12 ~~treatment of]~~ the patient; and
- 13 (l) Communication attempts of the AAHP permittee to the veterinarian of record.
- 14 (2) Patient medical records shall be complete and accurate.
- 15 (3) Patient medical records shall be maintained in the AAHP permittee's office for at least five (5)
- 16 years past the date of the last patient visit. Cessation from practice, either temporarily or
- 17 permanently, does not relieve the practitioner from compliance with this section.
- 18 (4) An AAHP permittee shall not violate the confidential relationship between the permittee and
- 19 the client, pursuant to KRS 321.187(6). Consultation by the permittee with another AAHP
- 20 permittee or veterinarian for the benefit of the patient shall not constitute a violation of
- 21 confidentiality.
- 22 (a) An AAHP permittee shall not release information concerning a client or care of a client's
- 23 animal, except as authorized by KRS 321.187(6).[;]

1 (b) An AAHP permittee shall, if requested by the client, communicate their findings,
2 service[treatment] plan, or records with the client's designated veterinarian.

3 Section 5. Duty to Report. AAHP permittees shall report to the board:

4 (1) Any change of name, address, phone, or email within thirty (30) days;

5 (2) A[Provide a] written response to a grievance or inquiry from the board in accordance with 201
6 KAR 16:610; and

7 (3) Disciplinary action or conviction in any jurisdiction.

8 Section 6. Compliance and Disciplinary Action.

9 (1) AAHP permittees shall be subject to disciplinary action for violation of:

10 (a) KRS Chapter 321 and 201 KAR Chapter 16; and

11 (b) Other applicable federal, state, and local laws.

12 (2) The board shall report any grievance or disciplinary action received against an AAHP permittee
13 to the professional licensing board in the human area of specialty and may consult with that board
14 as experts in their professional field.



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

2/13/2025
Date

APPROVED BY AGENCY: 5/23/2024, with updates 1/30/2025

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 201 KAR 016:737

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 responsibilities for AAHP permittees and limitations on their practice on animal patients.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to communicate clear requirements regarding limitations on practice and duties of AAHP permittees.

(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 and enforce KRS Chapter 321 and 201 KAR Chapter 16. KRS 321.235(2)(b)2. provides the board authority to promulgate administrative regulations to establish conditions for permitting and limitations upon allied animal health professional (AAHP) permittees.

(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 limitations on practice and duties of AAHP permittees approved by the board.

(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:

An estimated twenty (20) persons in Kentucky offering AAHP services are estimated to be affected.

(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:

AAHP permittees must practice on animals within the scope and limitations established within this administrative regulation, and ensure compliance with KRS Chapter 321 and 201 KAR Chapter 16.

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

No costs are associated with compliance, as this administrative regulation simply establishes the duties and limitations on AAHP permittees as approved by the board.

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

Administrative ease of clear communications of the limited scope of practice and responsibilities

for AAHP permittees.

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

(a) Initially:

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 016:737

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), 321.203, 321.205, 321.235(1)(a)-(c) and (2)(b)2., 321.236

(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: The KBVE expects costs for all board operations to be approximately \$759,700 annually in the near term. This includes the administration of the AAHP facility registration program, database management, infrastructure, overhead, and contractors, including legal counsel and investigators.

Revenues: There is no revenue generated by this filing.

Cost Savings: There will be no cost savings; this administrative regulation 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 AAHP facility registrants in Kentucky.

(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 016:737

BOARDS AND COMMISSIONS

Kentucky Board of Veterinary Examiners
(Amended After Comments)

I. The public hearing on 201 KAR 016:737, 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 (KAC)
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: Section 3 – Limitations on Practice for animal chiropractors – Rehabilitation

(a) Comment: Dr. Hollis, Dr. Wendt – The commentors state strong objections related to limitations on the practice of any rehabilitation activities and modalities, including commonly used modalities such as shockwave, laser, ultrasound, and electrotherapy. They state that even though these modalities are considered the practice of veterinary medicine, there should be exceptions for animal chiropractors who are certified and trained to work with animals. The commentors state they do not understand the limitations on these modalities since laypeople with no training can purchase this equipment and use it however they want. They ask, if a layperson is allowed to use this equipment, then why would KBVE prohibit a trained professional from using this equipment? Another commentor states that rehabilitation, along with other therapeutic modalities, constitutes an integral component of the standard curriculum and treatment for animals, and that according to information provided on the IVCA website, rehabilitation is included in the list of topics studied during their certification (see <https://ivca.de/ivca-accredited-courses/>).

(b) Response: notes: KBVE invited both the American Veterinary Chiropractic Association (AVCA) and the International Veterinary Chiropractic Association (IVCA) to speak to the Board at their January 30, 2025, meeting. AVCA has a focus on North America, while ICVA focuses on international work. Both the ACVA and IVCA indicated that practitioners should always follow state law, which varies from jurisdiction to jurisdiction, related to limitations on practice. However, they also stated that while there is some limited curriculum on various modalities beyond manipulation in the animal chiropractic course work, the philosophy of both organizations stressed that anything beyond spinal manipulation was the practice of veterinarian medicine and should not be conducted by a non-veterinarian. They emphasized that practitioners should stay in their lane of practice. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(2) Subject Matter: Section 3 – Limitations on Practice for animal chiropractors – Laser therapy

(a) Comment: Dr. Wendt – The commentor states strong objections related to limitations on the practice of any rehabilitation activities and modalities, including commonly used modalities such as shockwave, laser, ultrasound, and electrotherapy. The commentor cites KRS Chapter 321 and 201 KAR Chapter 16, citing definitions which allow a veterinarian to assign to a veterinary assistant task under indirect supervision which include laser therapy and animal rehabilitation therapies. They cite that a veterinary assistant is a layperson with only on-the-job training and is authorized to provide these services when the veterinarian is not even onsite. In contrast, chiropractors are required to complete 120 hours of physiotherapy education as a core part of their chiropractic degree before being eligible to sit for the National Board of Chiropractic Examiners (NBCE) Physiotherapy examination. This examination includes key modalities such as phototherapy (7%), ultrasound/thermotherapy (10%), and electrotherapy (10%). It is concerning that a “layperson or non-credentialed individual” can perform laser therapy and animal rehabilitation therapies with minimal training while also completely unsupervised with no veterinarian on site, whereas chiropractors receive extensive education on these modalities during their human chiropractic training, throughout the animal chiropractic certifications and in continuing education programs to maintain animal chiropractic certification and would not be allowed to provide those services. The commentor states that KAC fully supports limitations on AAHP practitioners where they have not received training, however KAC requests that those practitioners be allowed to fully utilize the training they have received to obtain certification and the training received as a part of the continuing education needed to maintain that certification. KAC requests KBVE strike from Section 3(2) parts (c) and (d) in their entirety, and further striking from part (e) the limitations on prescribing supplements and nutraceuticals.

(b) Response: KBVE invited both the American Veterinary Chiropractic Association (AVCA) and the International Veterinary Chiropractic Association (IVCA) to speak to the Board at their January 30, 2025, meeting. AVCA has a focus on North America, while ICVA focuses on international work. Both the ACVA and IVCA indicated that practitioners should always follow state law, which varies from jurisdiction to jurisdiction, related to limitations on practice. However, they also stated that while there is some limited curriculum on various modalities, the philosophy of both organizations stressed that anything beyond spinal manipulation was the practice of veterinarian medicine and should not be conducted by a non-veterinarian. They emphasized that practitioners should stay in their lane of practice. In response to these comments, the Board did not make any changes to the proposed administrative regulation. However, Members of the Board agreed to revisit 201 KAR 16:750 and move some of the modalities cited in this comment out of the indirect supervision for veterinary assistants.

(3) Subject Matter: Section 3 – Limitations on Practice for animal chiropractors – unintended overreach

(a) Comment: Dr. Wendt – The commentor states most animal chiropractors do not engage in extensive rehabilitation practices, such as underwater rehabilitation techniques, without obtaining additional rehabilitation specific certifications, such as the Certified Equine Rehabilitation Therapist (CERT). However, overly restrictive language prohibiting rehabilitation services could place animal chiropractors at risk for minor actions such as stretching a limb or performing manual therapy on a trigger point, activities that are fundamental to their practice.

(b) Response: KBVE invited both the American Veterinary Chiropractic Association (AVCA) and the International Veterinary Chiropractic Association (IVCA) to speak to the Board at their January 30, 2025, meeting. Representatives from those organizations admitted to the crossover between chiropractic manipulation and physical therapy. As medical practitioners, Members of the Board are aware of various modalities and their overlap. “Animal chiropractic” is clearly defined in KRS 321.181. Additionally, a seat is reserved for an AAHP permittee on the Board to provide perspectives about scope of practice. Legislation currently pending during the 2025 Session may additionally require an advisory committee for the AAHP animal chiropractic providers. KBVE has determined that enough definition and access to subject matter experts already exists in the event of a grievance case against a practitioner to be able to distinguish the difference between animal chiropractic and other modalities. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(4) Subject Matter: Section 3 – Limitations on Practice for animal chiropractors – consequences for future AAHP professions

(a) Comment: Dr. Wendt – The commentor states that limitations on modalities in this section may restrict future potential AAHP professions, including physical therapy, acupuncture, and equine dentistry, among others. Inclusion of restrictive language in this section would not only impede the progress of additional AAHP specialties but also potentially introduce unwarranted delays in further additional AAHP specialties.

(b) Response: The only AAHP permit currently allowable by the Kentucky General Assembly is for animal chiropractic providers (ACPs). If the General Assembly adds any other professions to the AAHP permit, KBVE will revisit the regulations to write appropriate limitations as appropriate for each additional professional carveout from veterinary medicine. KBVE determined it is not permissible to write regulations for professions outside their scope of authority. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(5) Subject Matter: Section 3 – Limitations on Practice for animal chiropractors – other states with rules on practice limitations

(a) Comment: Dr. Wendt – The commentor states they reviewed animal chiropractic statutes from across the country, noting that a common priority is ensuring that animal chiropractic care does not infringe upon the scope of veterinary practice. Key limitations typically include prohibitions against performing surgery, conducting imaging, or prescribing medications. However, the practice limitations outlined in the proposed regulations are overly restrictive, including the prohibition on dispensing supplements. If an animal owner wishes to obtain supplements for their pet, they will find a way to do so, potentially resorting to lower-quality options from sources like local drugstores.

(b) Response: KBVE invited both the American Veterinary Chiropractic Association (AVCA) and the International Veterinary Chiropractic Association (IVCA) to speak to the Board at their January 30, 2025, meeting. Representatives from those organizations underscored that the dietary needs of animals should be the sole dominion of veterinarians who have studied the unique needs of individual animal species. KBVE concurred that it is unsafe for the dietary needs of animal patients to be prescribed by non-veterinarians. Further, diet can be impactful to other conditions within an animal patient, including adverse interactions with other medications or foods that are prescribed by their veterinarian. In response to these comments, the Board changed the proposed administrative regulation, adding that recommendations or prescriptions on an animal's diet are not allowable by AAHP providers.

(6) Subject Matter: Section 3 – Limitations on Practice for physical therapists

(a) Comment: Dr. Maia, Dr. Schroyer – The commentors state that Section 3 limits the practice of any rehabilitation activities and modalities, including commonly used modalities by physical therapists such as shockwave, laser, ultrasound, and electrotherapy, under the practice of veterinary medicine with no exceptions for physical therapists who are certified and trained to work with animals, including both equines and canines. The commentors further state that although the American Physical Therapy Association (APTA) Animal Physical Therapy Special Interest Group (APTSIG) welcome legislative changes that help define the practice of physical therapy with animals, it is concerning that such changes are stripping away the ability for licensed and trained physical therapists in the state of Kentucky to work with animals.

(b) Response: There is no law in Kentucky allowing the practice of physical therapy on animals by licensed Physical Therapists. The Board met with the Kentucky Board of Physical Therapy (KBPT) in 2024, and the KBPT indicated clearly that any licensed physical therapist working on animals is doing so in contravention of the PT Practice Act and therefore operating outside the law, regardless of any APTA or APTSIG model documents and policies. The proposed regulation that was filed in October 2024 is solely for permitting of Allied Animal Health Professional (AAHP) Animal Chiropractic Providers (ACPs) because that is the only modality for which the General Assembly grants an allowance in statute for a carveout from the

practice of veterinary medicine for non-veterinarians. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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 commentators 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.

(13) Subject Matter: Requirement for communication between veterinarian and AAHP animal chiropractic providers (ACPs) before treatment – difficulties in obtaining contact information for veterinarians

(a) Comment: Dr. Hollis – The commentator states that the requirement for communication between the AAHP-ACP will be burdensome because veterinarians are very busy, and some clients don't even remember who their veterinarian is or how to contact them. This commentator states that veterinarians don't have the training required to really know what is needed in animal chiropractic care, and the three-day timeline for communication just serves to delay services to the animal patient. They claim that the timeline will also be difficult to track.

(b) Response: Members of the Board expressed puzzlement over how any veterinarian could operate a successful business without having a phone or email by which clients can reach them for services. Veterinarians are trained more thoroughly in animal care and needs than any other profession, and some veterinarians take specialized coursework in animal chiropractic to supplement their already substantial knowledge of animals. In response to the comment regarding potential delay in services to an animal, the Board amended the proposed regulation regarding the three-day communication timeline, making this optional in advance of services provided by an AAHP provider.

(14) Subject Matter: Requirement for communication between veterinarian and AAHP animal chiropractic providers (ACPs) before treatment – delayed patient care

(a) Comment: Dr. Wendt – The commentor states appreciation that, prior to filing, the window of communication was reduced from 10 days to 3 three days, however they believe this is still a cumbersome requirement and an unnecessary delay in patient care. The commentor states that the word “shall” in Section 2(1) and (3) mandates communication between an AAHP-ACP both before and after treatment for every encounter, which may occur daily. The commentor suggests removing the word “shall” in subsection (1) and replacing it with the word “may”. The regulation could still then leave the word “shall” in subsection (3). This commentor clarifies by stating that Chiropractors who have undergone the approved certifications possess ample training to identify indications of zoonotic, contagious, and infectious diseases. Moreover, they are equipped to discern situations where adjustments are contraindicated and to appropriately refer cases for additional evaluation. Additionally, the commentor states chiropractors fully recognize the importance of collaboration in care, which is just as essential in the human healthcare setting. However, they state the inclusion of this language unnecessarily prolongs the delivery of care. They cite the example of an animal in pain, and that the delay in waiting for a response from a veterinarian significantly prolongs the animal's suffering and poses a serious risk to its well-being or possibly diminishing the potential for recovery. This commentor states there have been reported cases where an animal was ultimately euthanized because the veterinarian refused to provide a referral to an animal chiropractor. In another instance, the animal died while waiting for a veterinary referral to an animal chiropractor. The commentor summarizes by stating that if an animal owner wishes to pursue chiropractic care for their animal, that choice should be respected by the veterinarian—provided it is safe to do so, as animal chiropractors are trained to assess and recognize such conditions.

(b) Response: Members of the Board met with Dr. Wendt and the Kentucky Association of Chiropractors multiple times in 2024 and 2025. Dr. Wendt also attended multiple KBVE Board meetings to voice objection to the communication requirements. A Member of the Board cited a case where a patient of theirs received treatment from a non-veterinarian animal chiropractic provider in another state and the animal died of complications from this treatment as a result. Had that provider communicated with the Board Member in advance, the patient would likely be alive today. Other Members of the Board cited that clients will often blame the veterinarian for harm or death of an animal even though they take the animal to receive services from non-veterinarian providers. They expressed that veterinarians should not be held liable for harm done to a patient by an AAHP provider. The Board discussed this concern in-depth at multiple meetings, noting that communication before and after treatment is critical for patient protection. However, Members of the Board did concede that licensed chiropractors may receive training to recognize a patient condition as not appropriate for treatment, but that legacy candidates most likely would not have this training. They also noted that clients want treatment by their chosen providers and do not want to see treatments delayed. Members of the Board agreed that the AAHP provider should be established as the liable party in a situation of patient harm, and in doing so this would free the veterinarian from liability regarding a lack of communication in advance of services provided by the AAHPs. In response to this comment, the Board changed the

communication requirements and cited the liability upon the AAHP provider in the proposed administrative regulation.

(15) Subject Matter: Requirement for communication between veterinarian and AAHP-ACPs after treatment – difficulties in obtaining contact information for veterinarians

(a) Comment: Dr. Hollis – The commentor states that some veterinarians have “nonexistent” contact information. They state that if the client wishes to share information, they should be able to. However, they reject putting the burden of communication upon the AAHP provider because both ACPs and veterinarians are too busy. The commentor claims that such exchanges of information will just vanish into space. The commentor agrees that treatment visits should be documented, but rejects communications between the AAHP provider and the veterinarian for every visit in all cases.

(b) Response: Members of the Board again expressed puzzlement over how any veterinarian could operate a successful business without having publicly available contact information by which clients can reach them for services. However, Members of the Board did acknowledge that practitioners are very busy responding to client needs. Members of the Board determined that communication between the AAHP provider and the primary care veterinarian is essential to patient safety, and at a minimum must occur following services provided by an AAHP provider. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(16) Subject Matter: AAHP patient medical records – contact information for veterinarian

(a) Comment: Dr. Hollis – The commentor states that the requirement to include the veterinarian’s contact information in the record will not be possible since many veterinarians simply don’t have this information publicly available.

(b) Response: Members of the Board indicated that clients can reach their veterinarian as needed, and that the AAHP provider should have this information on file in the event of an emergency situation that occurs during services they provider to an animal patient. Just like humans must keep the name and phone of an emergency contact and of their general practitioner on file with providers, an animal patient should expect a similar level of care and precaution from any non-veterinarian provider. In response to these comments, the Board did not make any changes to the proposed administrative regulation.

(17) Subject Matter: AAHP patient medical records – diagnosis

(a) Comment: Dr. Hollis – The commentor states that an AAHP provider should not provide a working diagnosis in the medical records, because a veterinarian is ultimately responsible for

the patient's care. They also state that a diagnosis is not even possible by the AAHP-ACPs because medical imaging by AAHP-ACPs is prohibited in the regulation.

(b) Response: Members of the Board agree that non-veterinarians are not provided authorization to diagnose animal patients. In response to this comment, the Board edited the proposed regulations to remove the word "diagnosis" and "treatment" as allowable activities for AAHP providers.

(18) 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.

(19) 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 016:737 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

RELATES TO

Line 5

After "321.181(1)-(4)," insert the following:

321.187, 321.200,

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 10

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

authorizes

Delete “provides”.

Delete “authority”.

Page 1

NECESSITY, FUNCTION, AND CONFORMITY

Line 11

After “limitations”, insert the following:

on practice

Page 1

Section 1(1)

Line 16

After “shall”, insert the following:

not practice

Delete “be prohibited from practicing”.

Page 1

Section 1(2)

Line 17

After “veterinarian”, insert the following:

if

Delete “when”.

Page 1

Section 1(2)

Line 18

At the beginning of the line, insert the following:

permittee provides services within the scope of practice as established

Delete “provider performs the procedure allowed by the scope of work described”.

Page 1

Section 2(1)

Line 21

After “(1)”, insert the following:

To ensure patient safety, an

After “permit holder”, insert the following:

may

Delete “An”.

Delete “shall”.

Page 2

Section 2(1)

Line 1

After “any”, insert the following:

regarding services to be rendered by the AAHP provider

Delete “clinical encounters, as defined by 201 KAR 16:701, Section 1(1),”.

Page 2

Section 2(1)(a)

Line 3

After “Appropriate”, insert the following:

services

After “provided”, insert the following:

:

Delete “treatments”.

Delete “,”.

Page 2

Section 2(1)(b)

Line 4

After “condition”, insert the following:

, current treatment regime,

Page 2

Section 2(2)

Line 5

After “(2)”, insert the following:

If the AAHP provider does not communicate with the animal patient’s veterinarian prior to initiation of services, then in the event of an adverse outcome the liability lies solely with the AAHP provider

Delete “Should a veterinarian be non-responsive to communication from an AAHP permittee within three (3) business days, the permittee shall not be prevented from proceeding with appropriate treatment with the informed consent of the client”.

Page 2

Section 2(3)

Line 8

After “findings,” insert the following:

services provided

Delete “After each clinical encounter,”.

Delete “treatments”.

Page 2

Section 2(3)

Line 10

After “days after”, insert the following:

services are provided

Delete “identification”.

Page 2

Section 2

Line 13

At the beginning of the line, insert the following:

(5) An AAHP permittee providing services to a patient that results in harm shall be cause for the AAHP permittee to be liable for that harm. The patient’s veterinarian shall not be liable for harm as a result of services provided by an AAHP permittee.

Page 2

Section 3(2)(e)

Line 22

After “supplements, or”, insert the following:

nutraceuticals, or diet

Delete “nutraceuticals”.

Page 3

Section 4

Line 8-9

Delete “of this administrative regulation”.

Page 3

Section 4(1)(d)

Line 15

After “or”, insert the following:

services provided

Delete “treatments”.

Page 3
Section 4(1)(e)
Line 16
Delete “treatment”.

Page 3
Section 4(1)(f)
Line 17
After “(f)”, insert the following:
AAHP provider observations and findings
Delete “Working allied animal health professional diagnosis”.

Page 3
Section 4(1)(g)
Line 18
After “(g)”, insert the following:
Plan for services,
Delete “Treatment plan”.

Page 3
Section 4(1)(h)
Line 19
After “(h)”, insert the following:
Notations related to provided services
Delete “Daily treatments, including areas adjusted or otherwise treated”.

Page 3
Section 4(1)(j)
Line 21
After “Name of”, insert the following:
the practitioner or practitioners
Delete “practitioner(s)”.

Page 3
Section 4(1)(k)
Line 22
After “advice”, insert the following:
regarding
Delete “on the treatment of”.

Page 4

Section 4(4)(a)

Line 11

After “KRS 321.187(6)”, insert the following:

Delete “;”.

Page 4

Section 4(4)(b)

Line 12

After “findings,” insert the following:

service

Delete “treatment”.

Page 4

Section 5(2)

Line 14

After “(2)”, insert the following:

A

Delete “Provide a”.