

1 Public Protection Cabinet

2 Department of Insurance

3 Division of Health and Life Insurance and Managed Care

4 (Amendment)

5 806 KAR 40:020. Charitable health care provider registration.

6 RELATES TO: KRS 304.40-075

7 STATUTORY AUTHORITY: KRS 304.2-110(1), 304.40-075(3)(b)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the
9 Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to
10 the effectuation of any provision of the Kentucky Insurance Code as defined in [~~authorizes the~~
11 ~~Executive Director of the Office of Insurance to promulgate administrative regulations necessary~~
12 ~~for or as an aid to the effectuation of any provision of~~]KRS 304.1-010 [~~304.010~~] through
13 304.99-154 [~~304.99-152~~]. KRS 304.40-075(3)(b) authorizes [~~requires~~] the department to
14 promulgate administrative regulations to establish reasonable guidelines for the registration of
15 charitable health care providers. As established in KRS 304.40-075, the [~~This~~] function of this
16 administrative regulation is to establish [~~establishes~~] guidelines for the registration of charitable
17 health care providers who seek [~~wish~~] to obtain reimbursement of paid premium [~~premiums~~
18 ~~paid~~] for medical professional liability insurance. [~~Pursuant to KRS 304.40-075, the office is~~
19 ~~required to establish guidelines for the registration of charitable health care providers who wish~~

1 to obtain reimbursement of premiums paid for medical professional liability insurance.
2 This administrative regulation will implement that requirement.]

3 Section 1. A charitable health care provider shall supply the following information to the
4 Department [Office] of Insurance in order to request reimbursement of paid premium for medical
5 professional liability insurance:

6 (1) The name [Name] and address of the provider;

7 (2) The license [License] number of the provider;

8 (3) The source [Source] of funding for the provider of charitable health care service;

9 (4) The number [Number] of employees who render medical care without compensation
10 or charge and without expectation of compensation or charge and who shall [will] be covered
11 under the medical professional liability insurance [malpractice coverage];

12 (5) The expected number of patients that may [to] be provided charitable health care
13 services in the year for which the insurer offers [will offer] malpractice coverage;

14 (6) The health [Health] services provided by the charitable health care provider;

15 (7) The following information [Information] regarding the provider's medical
16 professional liability insurance policy for which reimbursement is being requested:

17 (a) A copy [Copy] of the entire policy, including the declarations page showing:

18 1. The name and address of the insurer [Insurer's name and address];

19 2. The effective date of the policy [Policy effective dates];

20 3. The policy [Policy] number;

1 4. The total amount of premium [~~Premium~~] due; and

2 (b) The itemized [~~Itemized~~] billing and proof of payment of the requested reimbursement
3 amount [~~being requested to be reimbursed~~];

4 (8) A copy [~~Copy~~] of the registration filed with the Cabinet for Health and Family
5 Services established by [~~under~~] KRS 216.941; and

6 (9) Acknowledgment that the provider will follow the [~~insurer's~~] risk management and
7 loss prevention policies and procedures established by the insurer.

8 Section 2. If any of the information provided in Section 1 of this administrative
9 regulation changes or is incorrect, the charitable health care provider shall provide the correct
10 information immediately to the Department of Insurance [~~office~~].

11 Section 3. Any premium refund received by the charitable health care provider and
12 remitted to the Department [~~Office~~] of Insurance, pursuant to KRS 304.40-075(3)(d), shall be
13 accompanied by the following:

14 (1) A copy of the previous request;

15 (2) An explanation of the events prompting the refund; and

16 (3) Copies of all documents from the insurer regarding the refund and its amount.

17 Section 4. (1) An insurer that [~~which~~] offers medical professional liability insurance shall
18 provide information regarding the premium [~~premiums~~] paid, any expenses incurred by the
19 insurer, and the profits [~~profits~~] made for all risk covered pursuant to KRS 304.40-075. The
20 information required by Section 1 of this administrative regulation shall be provided to the
21 Department of Insurance [~~office~~] by March 1 and shall include premium, expense, and profit

1 information from the preceding calendar year and shall be submitted on Form CHP-2B P&C [07
2 2000].

3 (2) In order for the department [~~office~~] to determine reasonable loss ratio guidelines,
4 upon request by the department [~~office~~], an insurer that [~~which~~] offers medical professional
5 liability insurance shall provide premium, profit, and expense information related to the entirety
6 of the [~~all of its~~] medical professional liability insurance business of the insurer.

7 Section 5. Incorporation by Reference. (1) The following material is incorporated by
8 reference:

9 (a) Form CHP-2A P&C [~~07-2000~~], "Commonwealth of Kentucky Department [~~Office~~] of
10 Insurance Property and Casualty Division Medical Professional Liability Insurance Annual Call
11 for Data Instructions", 11/2020 edition; and

12 (b) Form CHP-2B P&C [~~07-2000~~], "Commonwealth of Kentucky Department [~~Office~~] of
13 Insurance Property and Casualty Division Liability Insurance Annual Call for Data", 11/2020
14 edition.

15 (2) This material may be inspected, copied or obtained, subject to applicable copyright
16 law, from the Department [~~Office~~] of Insurance, Mayo-Underwood Building, 500 Mero Street
17 [~~215 West Main Street~~], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
18 This material is also available on the office's Web site at www.insurance.ky.gov
19 [~~http://doi.ppr.ky.gov/kentucky/~~].

806 KAR 40:020
READ AND APPROVED:

Sharon P. Clark

12/18/2020

Sharon P. Clark
Commissioner, Department of Insurance

Date

Kerry B. Harvey

12/21/2020

Kerry B. Harvey
Secretary, Public Protection Cabinet

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on March 22nd, 2021 at 500 Mero Street, Frankfort, KY 40602. 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 is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. 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 11:59 PM on March 31st, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Abigail Gall
Title: Executive Administrative Secretary
Address: 500 Mero Street, Frankfort, KY 40601
Phone: +1 (502) 564-6026
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 40:020

Contact Person: Abigail Gall

Phone: +1 (502) 564-6026

Email: abigail.gall@ky.gov

(1) Provide a brief summary of: This administrative regulation sets forth the guidelines for charitable health care providers on how to register to receive paid premium reimbursement.

(a) What this administrative regulation does: The function of this administrative regulation is to create registration guidelines for charitable health care providers who want to obtain paid premium reimbursements for medical professional liability insurance.

(b) The necessity of this administrative regulation: KRS 304.40-075 requires the Department of Insurance to establish guidelines for the registration processes of charitable health care providers that seek premium paid reimbursement for medical professional liability insurance.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.40-07 5 charges the Department with the promulgation of administrative regulations which establish reasonable guidelines for the registration of charitable health care providers. This administrative regulation carries out the duties required by the statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 304.2-110(1) authorizes the commissioner to promulgate administrative regulations to assert the Insurance code. Also, KRS 304.40-075(3)(b), KRS 304.010 to 304.99-152 authorizes the commissioner to promulgate administrative regulations to set forth the guidelines for the registration process of charitable health care providers who seek reimbursements for paid premiums of medical professional liability insurance.

(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: The amendments to this administrative regulation are to address the statutory requirements set forth in Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: To meet the requirements of Chapter 13A.222 drafting rules.

(c) How the amendment conforms to the content of the authorizing statutes: The amendments made remove and replace outdated language that does not conform to Chapter 13A.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effectuation of the administration of cited statutes by ensuring the language of the regulation is easier to read for those effected by the administrative regulation itself.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Charitable health care providers who wish to obtain reimbursement of premiums paid for medical professional liability insurance will be affected. Currently, there are twenty-five (25) charitable health care providers in Kentucky. Insurers that provide medical professional liability insurance to charitable health care providers will be required to report information to the Department. Other insurers that offer medical professional liability insurance will be required to report information to the Department upon request.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Each charitable health care provider must inform the Department of any changes in its reported data. Insurers providing medical professional liability insurance must annually report information to the Department. Other insurers offering medical professional liability insurance must continually report information to the Department upon request.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There are no expected costs aside from filing fees that have been in place prior to this amendment.

(c) As a result of compliance, what benefits will accrue to the entities: Charitable health care providers that follow the registration process thoroughly may, if justifiable, receive reimbursements of premium payments for medical professional liability insurance.

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

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

(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: An increase of fees will not be necessary because additional personnel is likely unnecessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Explain why or why not. No tiering is applied. These requirements apply equally to all charitable health care providers seeking reimbursement of medical professional liability insurance premium payments.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 40:020

Contact Person: Abigail Gall

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Email: abigail.gall@ky.gov

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The department will be impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110(1), 304.40-075(3)(b)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No cost is expected.

(d) How much will it cost to administer this program for subsequent years? No cost is expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral

(5) Expenditures (+/-): Neutral

(6) Other Explanation:

SUMMARY OF MATERIALS INCORPORATED

806 KAR 40:020

(1) Form CHP-2A P&C 11/2020, "Commonwealth of Kentucky Department of Insurance Property and Casualty Division Medical Professional Liability Insurance Annual Call for Data Instructions"; contains instructions on how to complete the data sheet form CHP-2B P&C 11/2020.

(2) Form CHP-2B P&C 11/2020, "Commonwealth of Kentucky Department of Insurance Property and Casualty Division Liability Insurance Annual Call for Data"; specifies data to be disclosed in conformity with KRS 304.40-075. Any carrier providing professional liability insurance to a charitable health care provider must provide to the Department of Insurance data concerning its calendar year experience for Kentucky concerning direct premium written and earned and direct losses incurred along with a loss ratio. This material needs to be provided for the preceding five years. In addition, expense provisions, including commissions, other acquisition expenses, general expenses, and taxes licenses and fees are to be reported along with the profit load. This data is provided to the Department by March 1 each year.

SUMMARY OF CHANGES TO MATERIALS INCORPORATED

806 KAR 40:020

(1) Form CHP-2A P&C 11/2020, "Commonwealth of Kentucky Department of Insurance Property and Casualty Division Medical Professional Liability Insurance Annual Call for Data Instructions". There were many formatting changes to the form over the years, as well as the beginning date of the data call submission from September 15, 2000 to September 1, 2000. The amendments include an updated edition date.

(2) Form CHP-2B P&C 11/2020, "Commonwealth of Kentucky Department of Insurance Property and Casualty Division Liability Insurance Annual Call for Data". The amendments to this form add the physical address to the Department as well as update the edition date.