



1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office of the Secretary

3 (New Administrative Regulation)

4 915 KAR 1:050. Producer.

5 RELATES TO: KRS Chapter 218B

6 STATUTORY AUTHORITY: KRS 218B.140

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet  
8 for Health and Family Services to promulgate administrative regulations establishing requirements  
9 and procedures for medicinal cannabis producer operations in the commonwealth. This  
10 administrative regulation establishes those requirements and procedures.

11 Section 1. General requirements.

12 (1) No person or entity may engage in cultivation activities or processing activities in the  
13 commonwealth without first being issued a license by the cabinet. A producer shall not sell or  
14 transfer, or allow the sale or transfer, of medicinal cannabis or medicinal cannabis products to  
15 any person or entity in the commonwealth who does not hold a cannabis business license issued  
16 by the cabinet.

17 (2) A producer shall comply with all applicable requirements of KRS Chapter 218B,  
18 specifically KRS 218B.095 and 218B.120, and 915 KAR Chapter 1, specifically 915 KAR 1:030  
19 and 915 KAR 1:040.

1 (3) A producer shall not employ, take on as a volunteer, or have as a board member,  
2 principal officer, or agent any person who was convicted of a disqualifying felony offense or is  
3 younger than twenty-one (21) years of age.

4 (4) A producer may conduct cultivation and processing activities at separate locations,  
5 but shall not operate more than one (1) cultivation and one (1) processing facility per license  
6 issued by the cabinet.

7 (5) If a producer intends to conduct cultivation and processing activities at the same  
8 licensed location, the producer shall, prior to its first day of cultivation and processing activities  
9 at the same location, provide the cabinet with:

10 (a) A written plan for keeping strictly separated all cultivation activities from the  
11 processing activities; and

12 (b) A site map or blueprint showing which portions of its facility are designated for  
13 cultivation activities and which portions are designated for processing activities.

14 (6) A producer shall not exceed 50,000 square feet of total canopy size at an enclosed,  
15 locked facility.

16 (7) The qualifications that a producer shall meet to receive a license are continuing  
17 qualifications to maintain the license throughout the licensure period.

18 (8) If a need for additional medicinal cannabis cultivation or processing is demonstrated  
19 by cannabis businesses or the cabinet's own analysis, the cabinet may offer currently licensed  
20 cultivators or processors with the option to become licensed as a producer at the expiration of  
21 their current license. In making this determination, the cabinet may consider factors including:

22 (a) The population of the commonwealth;

23 (b) The number of active cardholders;

- 1 (c) Changes to the list of qualifying medical conditions for medicinal cannabis;
- 2 (d) Market supply and demand;
- 3 (e) Geographic distribution of cannabis businesses;
- 4 (f) The desire of cultivators or processors to receive a producer license;
- 5 (g) The demonstrated experience of the cultivators and processors;
- 6 (h) Workforce development opportunities; and
- 7 (i) Any other factors that the cabinet deems relevant to its analysis.

8 Section 2. Increase of canopy limits.

9 (1) If a need for additional medicinal cannabis cultivation is demonstrated by cannabis  
10 businesses or the cabinet's own analysis, the cabinet may through the promulgation of  
11 administrative regulations increase the canopy size limits for producers by up to three (3) times  
12 the limits established in KRS 218B.120. Any increase in the canopy size limits adopted by the  
13 cabinet shall not result in an increase in licensure application or renewal fees established by the  
14 cabinet.

15 (2) In making its determination whether to increase canopy limits for producers, the  
16 cabinet may consider factors including:

- 17 (a) The population of the commonwealth;
- 18 (b) The number of active cardholders;
- 19 (c) Changes to the list of qualifying medical conditions for medicinal cannabis;
- 20 (d) Market supply and demand;
- 21 (e) The amount of medicinal cannabis being sold by dispensaries;
- 22 (f) The amount of allowable canopy space being utilized by producers;
- 23 (g) Workforce development opportunities; and

1 (h) Any other factors that the cabinet deems relevant to its analysis.

2 Section 3. Duty to report.

3 (1) At the time a producer submits a license renewal application to the cabinet, a producer  
4 shall report the following to the cabinet via electronic mail to [kymedcanreporting@ky.gov](mailto:kymedcanreporting@ky.gov):

5 (a) The average amount of allowable canopy space being utilized by the producer during  
6 the current licensure period. If a producer is not utilizing the full amount of allowable canopy  
7 space during the current licensure period, the producer shall provide a written explanation to the  
8 cabinet of the reasons for not utilizing all available canopy space;

9 (b) Any significant issues with the supply and demand of medicinal cannabis experienced  
10 by the producer;

11 (c) The total amount of raw plant material sold during the current licensure period and the  
12 average price per pound;

13 (d) The total amount of raw plant material processed during the current licensure period  
14 and the average price per pound; and

15 (e) The number of current employees, their respective job titles, and hourly wage.

16 (2) A producer shall participate in market surveys distributed by the cabinet throughout a  
17 licensure period and provide full and complete responses.

915 KAR 1:050

REVIEWED:

DocuSigned by:  
*Sam Flynn*  
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1/2/2024

Sam Flynn  
Executive Director  
Kentucky Medical Cannabis Program  
Cabinet for Health and Family Services

Date

APPROVED:

DocuSigned by:  
*Eric Friedlander*  
0AFA1D6C15D8431

1/2/2024

Eric C. Friedlander  
Secretary  
Cabinet for Health and Family Services

Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:**

A public hearing on this administrative regulation shall, if requested, be held on March 25, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 18, 2024, five (5) 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 attends virtually 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 this proposed administrative regulation until March 31, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

Contact Person: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 915 KAR 1:050  
Agency Contact: Oran S. McFarlan, III  
Phone Number: (502) 564-5313  
Email: oran.mcfarlan@ky.gov

Contact Person: Krista Quarles  
Phone Number: (502) 564-7476  
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(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for medicinal cannabis producers to operate in the commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140(c).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements for producers to operate in the commonwealth. This administrative regulation sets out those requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the requirements for producers to operate in the commonwealth.

(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: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects producers that desire to conduct medicinal cannabis cultivation and processing activities in the commonwealth.

(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: The requirements to operate as a producer and remain in good standing throughout the licensure period are provided in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Producers will have to pay an initial application fee, and if approved for a license, an initial license fee and a renewal license fee if it desires to continue operating as a cannabis business following the expiration of its initial license.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Producers that receive a license from the Cabinet for Health and Family Services are authorized to conduct medicinal cannabis cultivation and processing activities in the commonwealth for the term of the license (i.e., 1 year from the date of license issuance).

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

(a) Initially: \$1,200,000

(b) On a continuing basis: \$1,200,000

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(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: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of producers.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied. All producers will be treated equally.



## FISCAL NOTE

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(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? This administrative regulation impacts the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.010, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.105, 218B.115, 218B.120, 218B.140.

(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.

(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? The cabinet will receive initial application fees and initial license fees paid by producers during the first year that license category is offered.

(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? The cabinet will receive annual renewal license fees from producers that desire to continue operating in the commonwealth following the expiration of their existing license.

(c) How much will it cost to administer this program for the first year? The cabinet estimates that it will cost \$1,200,000 to license and regulate producers in the first year that license category is offered.

(d) How much will it cost to administer this program for subsequent years? The cabinet estimates that it will cost \$1,200,000 to regulate licensed producers in subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of producers.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? The cabinet does not anticipate any cost savings in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? The cabinet does not anticipate any cost savings in subsequent years.

(c) How much will it cost the regulated entities for the first year? A producer will pay an initial application fee and, if issued a license, an initial license fee during the first year that license category is offered.

(d) How much will it cost the regulated entities for subsequent years? If it desires to continue cannabis business operations in the commonwealth, a producer will pay an annual renewal license fee. The renewal license fee is refundable if the renewal application is denied.

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

Cost Savings(+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]* The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth, including producers, as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.