



2023 Legislative Session General Update

KAHCF/KCAL 2023 Quality Summit

May 9, 2023

Adam Mather, Inspector General



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House Bill 176

An ACT relating to health care workplace safety

HB 176 creates new statutes under KRS Chapter 216 to require the Cabinet for Health and Family Services to develop and disperse the following information to health facilities:

- Guidelines for developing a workplace safety assessment;
- Examples of a workplace safety plan; and
- Examples of workplace safety standards specific to preventing workplace violence against health care workers.



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House Bill 176

After January 1, 2025, the Office of Inspector General (OIG) will be required to audit health facilities annually for compliance with the requirements for:



A workplace safety assessment



Violence prevention training for health care workers



An internal reporting system for acts of workplace violence

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House Bill 176

- In accordance with Section 2(3) of the bill, the OIG shall accept that a health facility is in compliance with HB 176 if the facility is:
 - Accredited;
 - Medicare/Medicaid certified; or
 - Licensed as an assisted living community or specialized personal care home.
- Although these facilities will be exempt from the requirement for an annual audit, the OIG will investigate complaints of noncompliance made against an “exempt” facility.
- The cabinet is currently in the process of developing materials and determining the appropriate steps necessary to roll out implementation of HB 176.
- The OIG will draft a new regulation to establish the process for facility compliance. Details are forthcoming.

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House Bill 502

An ACT relating to health care service agencies

- Brought forward by the American Association of International Healthcare Recruitment, HB 502 was clean-up legislation in response to the 2022 passage of HB 282.
- HB 502 excludes most international travel nurses from the requirements of KRS 216.718 through 216.728 because international recruits are typically placed in facilities for at least 24 months, unlike domestic travel nurses who are usually referred for short-term assignments.
- The OIG is currently in the process of amending the health care services agency regulation, 906 KAR 1:210, to align with the HB 502 changes by adding:
 - Definitions for “permanent direct care staff” and “temporary direct care staff” in accordance with KRS 216.718
 - An exemption for permanent direct care staff from the requirements of the regulation
- The OIG anticipates filing the proposed amendment of 906 KAR 1:210 by June 15, 2023.



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House Bill 391

An ACT relating to long-term care

- HB 391 requires the OIG to evaluate and discuss opportunities for joint training with the long-term care associations at least annually or upon the release of any new:
 - Regulatory guideline
 - Regulation
 - Interpretation
 - Program letter
 - Memorandum
 - If permitted by CMS, any other new materials used in surveyor training
- HB 391 also requires the OIG to invite representatives of the associations to participate in the planning process for any joint surveyor and provider training sessions.



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Senate Bill 43

An ACT relating to essential caregivers and declaring an emergency

- SB 43 replaces the reference to “an assisted living community, long-term care facility, or state-owned or operated mental or psychiatric hospital” with “a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility”, thereby increasing the number of facilities and programs required to implement essential personal care visitor programs during a period when general visitation is limited or prohibited.
- The OIG filed 900 KAR 14:010 on March 29, 2023 as an emergency to meet the filing deadline of SB 43; *however*, the regulation is not currently being enforced because there are no current prohibitions against general visitation in long-term care or other health facilities.

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Senate Bill 110

An ACT relating to health care

- SB 110 amends KRS 314.091 by authorizing the Kentucky Board of Nursing (KBN) to take action against a nurse’s license or otherwise deny approval if the licensee or applicant:
 - Is listed on the adult caregiver misconduct registry; or
 - Has a cabinet-substantiated finding or judicial finding of child abuse or neglect.
- SB 110 amends KRS 314.101 to clarify that any nurse who is licensed out-of-state and not a member of the Nurse Licensure Compact may practice in Kentucky on a nonroutine basis not to exceed seven (7) days.
- SB 110 amends KRS 314.121 to clarify that no less than three (3) and no more than six (6) members appointed to the Board of Nursing must be nurse educators.

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Senate Bill 110

As it relates to long-term care, SB 110 creates a new statute under KRS Chapter 314 that requires KBN to promulgate regulations to establish a process for credentialing medication aides.

The new regulation must include:



Educational requirements



Standards for training programs including delegation of the administration of oral or topical medications and preloaded insulin injections



Credentialing requirements for unlicensed staff who administer medications under the delegation of a nurse



Fees for medication aide training programs approved by KBN as well as initial and annual renewal fees for certified medication aides

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Senate Bill 110

- SB 110 also amends KRS 194A.705 to require long-term care facilities (LTCF) that provide basic health and health-related services or dementia care services to ensure that unlicensed staff who administer oral or topical medications, or preloaded injectable insulin to residents under the delegation of a nurse to have successfully completed a medication aide training and skills competency evaluation program approved by KBN.
- The OIG will update the LTCF licensure regulations to delete obsolete language and align with SB 110's requirement for certified medication aides and the forthcoming KBN regulation for approval of medication aide training programs and credentialing.

- The OIG intends to file the LTCF licensure regulations in batches over the course of multiple months to help control work volume.

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Senate Bill 110

SB 110 amends KRS 194A.710 to require the cabinet to establish a three (3) tiered licensure structure for assisted living communities:

Assisted Living Community License (ALC)	Assisted Living Community with Basic Health Care License (ALC-BH)	Assisted Living Community with Dementia Care License (ALC-DC)
License for any facility that provides assisted living services, excluding basic health and health-related services.	License for any facility that: <ul style="list-style-type: none"> Provides assisted living services, including basic health and health-related services directly to its residents; and Does not have a secured dementia care unit. 	License for any facility that provides assisted living services and dementia care services in a secured dementia care unit. <ul style="list-style-type: none"> As a condition of licensure, an ALC-DC must provide basic health and health-related services. [KRS 194A.7052(1)(e)]

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Senate Bill 111

An ACT relating to health care

- Like SB 110, SB 111 amends KRS 194A.705 to require long-term care facilities (LTCF) that provide basic health and health-related services or dementia care services to ensure that unlicensed staff who administer oral or topical medications, or preloaded injectable insulin to residents under the delegation of a nurse have successfully completed a medication aide training and skills competency evaluation program approved by KBN.
- SB 111 amends KRS 194A.705 to authorize a grace period for a limited subset of unlicensed staff.
 - Specifically, the bill allows those unlicensed personnel who administer oral or topical medications to residents of an apartment-style PCH required by KRS 194A.704 to convert to a licensed ALC an additional 6 months from the effective date of the Act (June 29, 2023) to comply.

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OIG Regulation Updates: <https://www.chfs.ky.gov/agencies/os/oig/Pages/regupdates.aspx>

