STATEMENT OF EMERGENCY
902 KAR 20:160E

This emergency administrative regulation is being filed concurrently with 907 KAR 15:080E to align with changes the Kentucky Medicaid Program is making to implement new services relating to withdrawal management for chemical dependency treatment center services. As amended, this administrative regulation will implement the licensure requirements to allow for both inpatient and outpatient services to be reimbursable by Medicaid when provided within these facilities. Additional changes implement the licensure requirements for new services relating to service planning, ambulatory withdrawal management, medication assisted treatment, and inpatient chemical dependency treatment. The primary reason for promulgating this administrative regulation as an emergency administrative regulation is to better ensure the availability of a full continuum of care within the Medicaid Program for substance use disorder services pursuant to the American Society of Addiction Medicine's (ASAM) Criteria. Without the authority granted by this administrative regulation, the full continuum of care for substance use disorder established in the ASAM Criteria will not be reimbursable by Medicaid. Nationwide, and within Kentucky, the opioid epidemic has been exacerbated by the ongoing COVID-19 pandemic, and this administrative regulation will give the Department for Medicaid Services (DMS) and Kentucky providers additional vital tools to confront this serious threat to Kentucky citizens. Specifically, this administrative regulation is being filed as an emergency administrative regulation in accordance with KRS 13A.190(1)(a)1., 2., and 4. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. in order to thoroughly confront the serious and imminent danger posed to Kentucky citizens by any exacerbation of the opioid epidemic. This emergency administrative regulation is also needed pursuant to KRS 13A.190(1)(a)2. in order to preserve state and federal funding. In order to continue the SUD 1115 Waiver, Kentucky Medicaid is required to establish and maintain the availability of the full spectrum of the ASAM level of care to Kentucky Medicaid members. Failure to fully implement the ASAM criteria may risk continued federal coverage and approval of the SUD 1115 Waiver. If that happens, there would be a loss of federal funding. DMS furthermore expects a modest cost-savings from introducing the ASAM 3.7 level of care and allowing it to be utilized by chemical dependency treatment centers. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)4. to protect human health by increasing access to treatment for substance use disorder (SUD), and to address all aspects of the SUD epidemic within Kentucky. Beyond the immediate imminent danger of any exacerbation of the opioid epidemic, this administrative regulation is necessary to bolster innovative efforts to continue to confront and address the long standing opioid epidemic. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC FRIEDLANDER, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care
(Emergency Amendment)

902 KAR 20:160E. Chemical dependency treatment services and facility specifications.

EFFECTIVE: October 13, 2020

RELATES TO: KRS 198B.260, 202A.241, 210.005, 216B.010, 216B.015, 216B.105, 216B.990, 218A.202, 309.080, 309.0831, 309.130, 310.021, 311.560, 311.571, 311.840 – 311.862, 314.011(8), 314.042, 319.050, 319.056, 319.064, 319C.010, 320.210(2), 335.080, 335.100, 335.300, 335.500, 42 C.F.R. Part 2, 45 C.F.R. 160, 164, 20 U.S.C. 1400, 29 U.S.C. 701, 42 U.S.C. 290ee-3, 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS [~~216B.010,~~] 216B.042(1), 216B.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 require the Cabinet for Health and Family Services to regulate health facilities and health services. This administrative regulation establishes licensure requirements for the operation, services, and facility specifications of chemical dependency treatment programs, including programs that [~~which~~] elect to provide outpatient behavioral health services for individuals with a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis.

Section 1. Definitions. (1) "Aftercare" means the process of providing continued services following primary chemical dependency treatment to support and increase gains made during treatment.

(2) "Behavioral health professional" means:

(a) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry;

(b) A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

(c) A psychologist licensed and practicing in accordance with KRS 319.050;

(d) A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;

(e) A clinical social worker licensed and practicing in accordance with KRS 335.100;

(f) An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

(g) A physician assistant as defined by KRS 311.840(3)[~~licensed under KRS 311.840 to 311.862~~];

(h) A licensed marriage and family therapist as defined by [~~licensed and practicing in accordance with~~] KRS 335.300(2);

(i) A licensed professional clinical counselor as defined by [~~licensed and practicing in accordance with~~] KRS 335.500(3); or

(j) A licensed professional art therapist as defined by KRS 309.130(2).

(3) "Behavioral health professional under clinical supervision" means a:

(a) Psychologist certified and practicing in accordance with KRS 319.056;

(b) Licensed psychological associate licensed and practicing in accordance with KRS 319.064;

(c) Marriage and family therapy[~~therapist~~] associate as defined by KRS 335.300(3);

(d) Social worker certified and practicing in accordance with KRS 335.080;

(e) Licensed professional counselor associate as defined by KRS 335.500(4); or

(f) Licensed professional art therapist associate as defined by KRS 309.130(3).

(4) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

(5) "Governing authority" means the individual, agency, partnership, or corporation that directs and establishes policy concerning the management and operation of a chemical dependency treatment program.

(6) "Interdisciplinary team" means a group of at least four (4) professionals, including a physician, registered nurse, certified chemical dependency counselor, and a person with a master's degree in psychology, social work, or counseling.

(7) "Licensed clinical alcohol and drug counselor" is defined by KRS 309.080(4).

(8) "Licensed clinical alcohol and drug counselor associate" is defined by KRS 309.080(5).

(9) "Peer support specialist" means a paraprofessional who:

(a) Is a registered alcohol and drug peer support specialist in accordance with KRS 309.0831; or

(b)1. Meets the application, training, examination, and supervision requirements of 908 KAR 2:220, 908 KAR 2:230, or 908 KAR 2:240; and

2. Works under the supervision of one (1) of the following:

a. Physician;

b. Psychiatrist;

c. Licensed psychologist;

d. Licensed psychological practitioner;

e. Licensed psychological associate;

f. Licensed clinical social worker;

g. Licensed marriage and family therapist;

h. Licensed professional clinical counselor;

i. Certified social worker;

j. Licensed marriage and family therapy associate;

k. Licensed professional counselor associate;

l. Licensed professional art therapist;

m. Licensed professional art therapist associate;

n. Advanced practice registered nurse;

o. Physician assistant;

p. Certified alcohol and drug counselor; or

q. Licensed clinical alcohol and drug counselor.

(10) "Restraint" means a physical or mechanical device used to restrict the movement of the patient or a portion of the patient's body.

(11) "Substance use disorder" is defined by KRS 222.005(12)[~~means a cluster of cognitive, behavioral, and physiological symptoms resulting from use of a substance which the individual continues to take despite experiencing substance-related problems as a result, including:~~

~~(a) Intoxication;~~

~~(b) Withdrawal; or~~

~~(c) A substance induced mental health disorder~~].

(12) “Targeted case manager” means an individual who meets the requirements for a targeted case manager established by 908 KAR 2:260.

Section 2. Scope of Operation and Services. (1) A chemical dependency treatment service shall have a structured inpatient program to provide medical, social, diagnostic, and treatment services to individuals with substance use disorder.

(2) Chemical dependency treatment services shall:

(a) Have a duration of less than thirty (30) days;

(b) Be hospital based or freestanding;

(c) Have eight (8) or more patient beds;

(d) Be under the medical direction of a physician; and

(e) Provide continuous nursing services.

(3) If a chemical dependency treatment program provides outpatient behavioral health services, as established[~~described~~] in Section 5 of this administrative regulation, for individuals with a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis:

(a) The outpatient behavioral health services shall be provided:

1. On a separate floor, in a separate wing, or in a separate building on the campus of the chemical dependency treatment program's inpatient facility; or

2. At an extension off the campus of the chemical dependency treatment program's inpatient facility;

(b) The chemical dependency treatment program shall pay a fee in the amount of $250 per off-campus extension providing outpatient behavioral health services, submitted to the Office of Inspector General at the time of:

1. Initial licensure, if applicable;

2. The addition of a new extension to the chemical dependency treatment program's license; and

3. Renewal;

(c) Each off-campus extension or on-campus program of outpatient behavioral health services shall be listed on the chemical dependency treatment program's license;

(d) An off-campus extension or a separate building on the campus of the chemical dependency treatment program's inpatient facility where outpatient behavioral health services are provided shall comply with the physical environment requirements of Section 8 of this administrative regulation and be approved by the State Fire Marshal's office prior to:

1. Initial licensure;

2. The addition of the extension or on-campus program of outpatient behavioral health services in a separate building; or

3. A change of location;

(e) The program shall employ directly or by contract a sufficient number of personnel to provide outpatient behavioral health services;

(f) The outpatient behavioral health services program shall have a program director who:

1. May also serve as the chemical dependency treatment program's treatment director described in Section 3(10) of this administrative regulation; and

2. Shall be a:

a. Psychiatrist;

b. Physician;

c. [~~Certified or~~] Licensed psychologist or certified psychologist with autonomous functioning;

d. Licensed psychological practitioner;

e. Psychiatric nurse;

f. Advanced practice registered nurse;

g. Licensed professional clinical counselor;

h. Licensed marriage and family therapist;

i. Licensed professional art therapist;

j. Licensed [~~board certified~~] behavioral analyst; or

k. Licensed clinical social worker; and

(g) Unless an extension of time is granted pursuant to subsection (4) of this section, the outpatient program shall become accredited by one (1) of the following within one (1) year of adding outpatient behavioral health services to the chemical dependency treatment program's license:

1. The Joint Commission;
2. The Commission on Accreditation of Rehabilitation Facilities;
3. The Council on Accreditation; or
4. A nationally recognized accreditation organization.

(4)(a) If a chemical dependency treatment services outpatient program has not obtained accreditation within the one (1) year timeframe required by subsection (3)(g) of this section, the program may request a one (1) time only extension to complete the accreditation process.

(b) A request for extension shall:

1. Be submitted in writing to the Office of Inspector General at least sixty (60) days prior to expiration of the one (1) year deadline described in subsection (3)(g) of this section;
2. Include evidence that the program initiated the process of becoming accredited within sixty (60) days of adding outpatient behavioral health services to the program's license and is continuing its efforts to obtain accreditation; and
3. Include an estimated timeframe by which approval of accreditation is anticipated.

(5) A program shall cease providing outpatient behavioral health services if the program fails to:

(a) Become accredited in accordance with subsection (3)(g) of this section;

(b) Request an extension in accordance with subsection (4) of this section, if accreditation has not been obtained; or

(c) Maintain accreditation.

(6) Proof of accreditation shall be provided to the Office of Inspector General upon receiving accreditation and at the time of annual renewal.

Section 3. Administration and Operation. (1) The licensee shall be responsible for compliance with federal, state, and local laws and administrative regulations pertaining to the operation of chemical dependency treatment programs.

(2)(a) The governing authority shall appoint a program administrator who shall have a:

1. Bachelor's degree in a health or human services field;
2. Bachelor's degree in another field supplemented with one (1) year of work experience in the field of chemical dependency; or
3. High school diploma and four (4) years of experience in the field of chemical dependency.

(b) The governing authority shall establish, in writing:

1. Program goals and objectives; and
2. An evaluation plan for annual assessment of the attainment of the goals and objectives.

(3) Program administrator.

(a) The program administrator shall:

1. Be responsible for the daily management of the facility; and
2. Serve as the liaison between the governing authority and staff members.

(b) The program administrator shall keep the governing authority informed of the operations of the facility through reports and attendance at meetings of the governing authority.

(4) Administrative records and reports.

(a) A medication error, drug reaction, accident, or other incident involving a patient, visitor, or staff member[~~,~~] shall be documented in writing, signed by the program administrator and any witness to the event, and placed in an incident file.

(b) Licensure inspection reports, plans of correction, and program evaluations shall be available to the public, upon request, at the facility.

(5) Policies.

(a) Administrative policies. The program shall have a written administrative policy to cover each aspect of the facility's operation, including[~~as follows~~]:

1. A description of the organizational structure, staffing, and allocation of responsibility and accountability;

2. A description of referral linkages with other facilities and providers;

3. A description of the services included in the program, including outpatient behavioral health services if provided;

4. An expense and revenue accounting system following generally accepted accounting procedures;

5. A volunteer program; and

6. Program evaluation and quality assurance review.

(b) Patient care policy. A written patient care policy shall be developed and shall include a description of:

1. Actions to be taken if[when] a patient is lost, unaccounted for, or otherwise absent without authorization;

2. Provisions for patient visitation and use of telephones;

3. Provision of emergency medical services; and

4. Patient admission and discharge criteria, including the categories of individuals accepted and not accepted by the program.

(c) Patient rights policy. A written policy shall be developed and maintained to enhance patient dignity and to protect human rights. The policy shall assure that each patient or client receiving outpatient behavioral health services shall be[is]:

1. Informed of rules and regulations governing patient conduct and responsibilities, including the procedure for handling grievances;

2. Informed, prior to admission for rehabilitation or receipt of outpatient behavioral health services, of services available and charges for treatment, including charges not covered under Medicare, Medicaid, or other third-party payor;

3. Encouraged and assisted to:

a. Understand and exercise patient rights;

b. Voice grievances; and

c. Recommend changes in policies and services. Upon request by a patient, a grievance or recommendation shall be conveyed to that body within the organization with authority to take corrective action;

4. Presented with the opportunity to participate in the planning of his or her treatment;

5. Informed of the right to refuse to participate in experimental research;

6. Assured confidential treatment of records and presented with the opportunity to approve or refuse release of records to any individual not involved in his or her care, except as required by Kentucky law or third party payment contract; and

7. Treated with consideration, respect, and recognition of personal dignity and individuality, including privacy in treatment and personal health needs.

(6) Personnel.

(a) The governing authority shall:

1. Establish a personnel policy; and

2. Review the personnel policy at least one (1) time annually and update the policy as needed.

(b) There shall be a personnel record for each person employed by the chemical dependency treatment inpatient facility and, if applicable, the outpatient behavioral health services program, which shall include evidence[the following]:

1. [Evidence] Of the results of a tuberculosis test, performed either prior to or within the first week of employment and annually thereafter;

2. [~~Evidence~~] Of education, training, and experience, and a copy of current license or certification credentials, if applicable;

3. [~~Evidence~~] That the employee received orientation to the facility's written policies within the first week of employment; and

4. [~~Evidence~~] Of regular in-service training that[~~which~~] corresponds with job duties and includes a list of training and dates completed.

(7) Staffing requirements.

(a) The chemical dependency treatment program shall have personnel sufficient to meet patient needs at the inpatient facility on a twenty-four (24) hour basis.

(b) The number and classification of personnel required shall be based on the number of patients and the individual treatment plans.

(8) Medical director. The chemical dependency treatment program’s inpatient facility shall have a medical director who shall:

(a) Be a physician licensed in accordance with KRS 311.571;[~~:~~]

(b) Be responsible for the medical aspect of the program; and

(c) Have duties that[~~which~~] shall include:

1. Patient admission;

2. Approval of patient treatment plans;

3. Participation in the quality assurance review; and

4. Provision of medical services, personally or by a designated physician, either in-house or on-call, on a twenty-four (24) hour basis.

(9) Interdisciplinary team. The chemical dependency treatment program shall have an interdisciplinary team responsible for:

(a) Developing individual treatment plans;

(b) Developing aftercare plans; and

(c) Conducting quality assurance reviews.

(10) Treatment director. The chemical dependency treatment program shall have a full time treatment director responsible for:

(a) Coordinating the interdisciplinary team in developing individual treatment plans;

(b) Initiating a periodic review of each patient's treatment plan;

(c) Supervising the maintenance of patient records; and

(d) Coordinating the interdisciplinary team in developing an aftercare plan for each patient to provide continuity of care.

(11) Nursing services within the chemical dependency treatment program’s inpatient facility.

(a) Nursing services shall be available on a twenty-four (24) hour basis.

(b) The program shall have at least one (1) full-time registered nurse.

(c) If a registered nurse is not on duty, a licensed practical nurse shall be responsible for the nursing care of patients and a registered nurse shall be on call.

(12) Medical supervision. A physician, or registered nurse under the direction of a physician, shall supervise:

(a) Implementation of the medical aspects of the treatment plan; and

(b) All staff directly involved in patient medical care.

(13) In-service training.

(a) All personnel of the chemical dependency treatment program’s inpatient facility or, if applicable, the outpatient behavioral health services program[~~,~~] shall participate in ongoing in-service training specific to the employee’s job activities.

(b) Training shall include:

1. Thorough job orientation for new personnel; and

2. Regular in-service training emphasizing professional competence and the human relationship necessary for effective health care.

(14) Patient records of the chemical dependency treatment program's inpatient facility.

(a)1. An individual record shall be maintained for each patient.

2. Each entry shall be signed and dated by the person making the entry.

(b) At the time of admission, the following information shall be entered into the patient's record:

1. Name, date of admission, birth date and place, marital status, and Social Security number;

2. Person to contact in case of emergency;

3. Next of kin; and

4. Type and place of employment.

(c) The record shall contain documentation of medical services provided during detoxification and rehabilitation, including the results of physical examinations.

(d)1. The record shall contain the patient's treatment plan establishing[~~outlining~~] goals and objectives for the individual during treatment.

2. The record shall also contain documentation of how the plan was implemented and of patient progress in meeting the goals and objectives established[~~outlined~~] in the treatment plan.

(e) The record shall contain notation of medication administered, stating the date, time, dosage, and frequency of administration and the name of the person administering each dose.

(f) The record shall contain a discharge summary and a plan for aftercare.

(g) The discharge summary shall be entered in the patient's record within seven (7) days after discharge and shall include:

1. The course and progress of the patient with regard to the individual treatment plan;

2. General observations of the patient's condition initially, during treatment, and at discharge; and

3. The recommendations and arrangements for further treatment, including prescribed medications and aftercare.

(h) If the patient is referred to another service provider after discharge, and if the patient executes a written release, a copy of the discharge summary shall be [~~with the patient's permission~~] sent to the provider with the patient's permission.

(i) After a patient's death or discharge, the completed record shall be placed in an inactive file and be retained for at least the longer of:

1. [~~Retained for~~] Six (6) years; or

2. If a minor, three (3) years after the patient reaches the age of majority pursuant to KRS 2.015[~~under state law, whichever is longest~~].

(15) Confidentiality and Security: Use and Disclosure.

(a) The chemical dependency treatment program shall maintain the confidentiality and security of medical records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 through[~~to~~] 1320d-8, and 45 C.F.R. Parts 160 and 164[~~, as amended~~], including the security requirements mandated by [~~subparts A and C of~~] 45 C.F.R. Part 164, Subparts A and C, or as provided by applicable federal or state law, including 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(b) The chemical dependency treatment program may use and disclose medical records. Use and disclosure shall be as established or required by:

1. HIPAA, 42 U.S.C. 1320d-2 through[~~to~~] 1320d-8, and 45 C.F.R. Parts 160 and 164; or

2. 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(c) This administrative regulation shall not be construed to prohibit[~~forbid~~] the chemical dependency treatment program from establishing higher levels of confidentiality and security than required by HIPAA, 42 U.S.C. 1320d-2 through[~~to~~] 1320d-8, and 45 C.F.R. Parts 160 and 164, or 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2.

(16) Linkage agreements.

(a) The program shall have linkages through written agreements with providers of other levels of care that could[~~which may~~] be medically indicated to supplement the services available in the program.

(b) Linkages shall include a hospital and an emergency medical transportation service in the area.

(17) Quality assurance. The program shall have a quality assurance program that includes an effective mechanism for reviewing and evaluating patient care on a regular basis by the interdisciplinary team.

(18) Medications.

(a) A prescription or nonprescription medication administered to a patient shall be noted in the patient's records with the date, time, and dosage, and signed by the person administering the medication.

(b) Each prescription medication shall be plainly labeled with the:

1. Patient's name;
2. Name of the drug;
3. Strength;
4. Name of pharmacy;
5. Date;
6. Physician name;
7. Caution statement; and
8. Directions for use.

(c)1. A prescription or nonprescription medication shall not be administered to a patient except on the written order of a physician or other practitioner acting within his or her statutory scope of practice.

2. A medication shall be administered by licensed personnel.

(d)1. Medication shall be kept in a locked storage area, which shall be well lighted and of sufficient size to permit storage without crowding.

2. Medication requiring refrigeration shall be kept in a separate locked box in a refrigerator.

3. Medication for external use shall be stored separately from medication administered by mouth or injection.

(e) A medication error or drug reaction shall be reported immediately to the medical director and treatment coordinator and an entry shall be made in the patient's record.

(f) An emergency medical kit, with contents approved by a physician, shall be:

1. Maintained at the facility; and

2. Inspected after use or at least monthly to remove deteriorated and outdated drugs and to ensure completeness of content.

(19) Restraints. Requirements for the use of restraints shall be met pursuant to KRS 202A.241 and 908 KAR 3:010, Section 9.

(20) Activities schedule. A daily schedule of program activities shall be posted in the chemical dependency treatment program's inpatient facility.

Section 4. Provision of Services. (1) Withdrawal management services [~~Detoxification~~]. A chemical dependency treatment program's inpatient facility shall provide medically monitored

intensive inpatient [medical detoxification] services pursuant to the requirements of 902 KAR 20:111 directly or through another licensed provider for a patient who meets the:

(a) Diagnostic criteria for substance intoxication or withdrawal disorder as established by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) for alcohol, tobacco, and other drug use; and

(b) Dimensional criteria for medically monitored intensive inpatient services in accordance with the most recent version of The American Society of Addiction Medicine (ASAM) Criteria [requires detoxification].

(2) Rehabilitation. A chemical dependency treatment program's inpatient facility shall provide:

(a) Medical services as needed, under the supervision of a physician;

(b) Scheduled individual, group, and family counseling;

(c) Psychological testing and evaluation as needed;

(d) Education of the patient on the subject of chemical dependency and related lifestyle issues, including nutrition and communication skills;

(e) Recreational activities with facilities and equipment, consistent with the patient's needs and the therapeutic program;

(f) Referral to other rehabilitative or community service agencies providing services not available through the program; and

(g) Aftercare services provided directly or through arrangement with another agency.

(3) Physical examinations. Within ten (10) days prior to, or three (3) days after, admission to the chemical dependency treatment program's inpatient facility for rehabilitation, a patient shall have a physical examination with tests ordered by a physician.

(4) Psychosocial history.

(a) A patient in a chemical dependency treatment program's inpatient facility shall have a psychosocial history and assessment interview within seventy-two (72) hours after admission for rehabilitation.

(b) The following data shall be collected and recorded in the patient record:

1. History of alcohol and drug use;
2. A determination of current emotional state;
3. Vocational history;
4. Familial relationships; and
5. Educational background.

(5) Treatment plan.

(a) The interdisciplinary team, with the participation of the patient, shall develop an individual treatment plan within four (4) days after admission to the chemical dependency treatment program's inpatient facility for rehabilitation, based on the patient's medical evaluation and psychosocial history and assessment.

(b) The treatment plan shall:

1. Specify the services required for meeting the patient's needs;
2. Identify goals necessary for the patient to achieve, maintain, or reestablish physical health and adaptive capabilities;
3. Establish goals with both long-term and short-term objectives and the anticipated time expected to meet these goals; and
4. Identify the location and frequency of treatment procedures, including referrals for a required service not provided by the program.

(6) The treatment plan shall be reviewed and updated at least weekly for the duration of the inpatient treatment.

(7)(a) The patient's family or significant others shall be involved in the treatment process, if approved by the patient.

(b) An attempt to involve family members or significant others shall be reported in the patient's medical record.

(8) Aftercare plan.

(a)1. A written aftercare plan shall be developed prior to completion of treatment in the chemical dependency treatment program’s inpatient facility by the:

a. Interdisciplinary team;

b. Patient; and

c. With the patient's permission, [~~the~~] patient's family or significant others.

2. The aftercare plan shall be designed to establish continued contact for the support of the patient.

(b) The aftercare plan shall include methods and procedures to meet patient needs through direct contact or with assistance from other community human services organizations.

(c) If aftercare services are provided directly, review and update of the aftercare plan shall be conducted with the frequency of review determined by the:

1. Interdisciplinary team;

2. Patient; and

3. With the patient's permission, [~~the~~] patient's family or significant others.

(d) If the patient is referred to another agency for aftercare services, follow-up shall be conducted to determine if services are being provided.

Section 5. Provision of Outpatient Behavioral Health Services, Plan of Care, and Client Records. (1) Pursuant to Section 2(3) of this administrative regulation, a chemical dependency treatment program may provide one (1) or more of the following outpatient behavioral health services for individuals with a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis:

(a) Screening, which shall be provided face-to-face or via telehealth by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate to determine the:

1. Likelihood that an individual has a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis; and

2. Need for an assessment;

(b) Assessment, which shall:

1. Be provided face-to-face or via telehealth by a behavioral health professional, behavioral health professional under clinical supervision, a certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate who gathers information and engages in a process with the client, thereby enabling the professional to:

a. Establish the presence or absence of a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis;

b. Determine the client’s readiness for change;

c. Identify the client’s strengths or problem areas that could[~~which may~~] affect the treatment and recovery processes; and

d. Engage the client in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinical disorder or service need;

3. Include working with the client to develop a plan of care if a clinical disorder or service need is assessed; and

4. Not include psychological or psychiatric evaluations or assessments;
(c) Psychological testing, which shall:
1. Be performed face-to-face or via telehealth by a licensed psychologist, licensed psychological associate, or licensed psychological practitioner; and
2. Include a psychodiagnostic assessment of personality, psychopathology, emotionality, or intellectual disabilities, and interpretation and written report of testing results;
(d) Crisis intervention, which:
1. Shall be a therapeutic intervention for the purpose of immediately reducing or eliminating the risk of physical or emotional harm to the client or another individual;
2. Shall consist of clinical intervention and support services necessary to provide integrated crisis response, crisis stabilization interventions, or crisis prevention activities;
3. Shall be provided:
a. [~~On-site at the chemical dependency treatment program's facility;~~
~~b.~~] As an immediate relief to the presenting problem or threat; and
b.[~~c.~~] In a face-to-face, one (1) on one (1) encounter or as a comparable service provided via telehealth;
4. [~~May include verbal de-escalation, risk assessment, or cognitive therapy;~~
~~5.~~] Shall be provided by a:
a. Behavioral health professional;
b. Behavioral health professional under clinical supervision;
c. Certified alcohol and drug counselor;
d. Licensed clinical alcohol and drug counselor; or
e. Licensed clinical alcohol and drug counselor associate;
5.[~~6.~~] Shall be followed by a referral to noncrisis services, if applicable; and
6.[~~7.~~] May include:
a. Further service prevention planning, including:
(i) Lethal means reduction for suicide risk; or
(ii) Substance use disorder relapse prevention; or
b. Verbal de-escalation, risk assessment, or cognitive therapy;
(e) Mobile crisis services, which shall:
1. Be available twenty-four (24) hours a day, seven (7) days a week, every day of the year;
2. Be provided for a duration of less than twenty-four (24) hours;
3. Not be an overnight service;
4. Be a multi-disciplinary team based intervention that ensures access to acute substance use services and supports to:
a. Reduce symptoms or harm; or
b. Safely transition an individual in an acute crisis to appropriate, least restrictive level of care;
5. Involve all services and supports necessary to provide:
a. Integrated crisis prevention;
b. Assessment and disposition;
c. Intervention;
d. Continuity of care recommendations; and
e. Follow-up services;
6. Be provided in a home or community setting by a:
a. Behavioral health professional;
b. Behavioral health professional under clinical supervision;
c. Certified alcohol and drug counselor;
d. Licensed clinical alcohol and drug counselor; or

e. Licensed clinical alcohol and drug counselor associate; and

7. Ensure access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year;

(f) Day treatment, which shall:

1. Be a nonresidential, intensive treatment program designed for children who:

a. Have a substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis;

b. Are under twenty-one (21) years of age; and

c. Are at high risk of out-of-home placement due to a behavioral health issue;

2. Consist of an organized, behavioral health program of treatment and rehabilitative services for substance use disorder or co-occurring disorder in which substance use disorder is the primary diagnosis;

3. Have unified policies and procedures that address the organization's philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning;

4. Include [~~the following~~]:

a. Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

b. Behavior management and social skill training;

c. Independent living skills that correlate to the age and development stage of the client; and

d. Services designed to explore and link with community resources before discharge and to assist the client and family with transition to community services after discharge;

5. Be provided [~~as follows~~]:

a. In collaboration with the education services of the local education authority including those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

b. On school days and during scheduled breaks;

c. In coordination with the child's individual educational plan or Section 504 plan if the child has an individual educational plan or Section 504 plan;

d. By personnel that includes a behavioral health professional, a behavioral health professional under clinical supervision, a certified alcohol and drug counselor, a licensed clinical alcohol and drug counselor, a licensed clinical alcohol and drug counselor associate, or a peer support specialist; and

e. According to a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider; and

6. Not include a therapeutic clinical service that is included in a child's individualized education plan;

(g) Peer support, which shall:

1. Be provided by a peer support specialist;

2. Be structured and scheduled nonclinical therapeutic activity with a client or group of clients;

3. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills; and

4. Be identified in the client's plan of care developed through a person-centered planning process;

(h) Intensive outpatient program services, which shall:

1. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy;

2. Be provided at least:

a. Three (3) hours per day at least three (3) days per week for adults; or
b. Six (6) hours per week for adolescents;
3. Include [~~the following~~]:
a. Individual outpatient therapy;
b. Group outpatient therapy;
c. Family outpatient therapy unless contraindicated;
d. Crisis intervention; or
e. Psycho-education during which the client or client’s family member shall be:
(i) Provided with knowledge regarding the client’s diagnosis, the causes of the condition, and the reasons why a particular treatment might be effective for reducing symptoms; and
(ii) Taught how to cope with the client’s diagnosis or condition in a successful manner;
4. Include a treatment plan, which shall:
a. Be individualized; and
b. Focus on stabilization and transition to a lower level of care;
5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate;
6. Include access to a board-certified or board-eligible psychiatrist for consultation;
7. Include access to a psychiatrist, other physician, or advanced practice registered nurse for medication prescribing and monitoring; and
8. Be provided in a setting with a minimum client-to-staff ratio of ten (10) clients to one (1) staff person;
(i) Individual outpatient therapy, which shall:
1. Be provided to promote the:
a. Health and wellbeing of the client; or
b. Recovery from a substance related disorder;
2. Consist of:
a. A face-to-face encounter or telehealth consultation with the client; and
b. A behavioral health therapeutic intervention provided in accordance with the client’s plan of care;
3. Be aimed at:
a. Reducing adverse symptoms;
b. Reducing or eliminating the presenting problem of the client; and
c. Improving functioning;
4. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy unless additional time with the client is medically necessary in accordance with 907 KAR 3:130; and
5. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate;
(j) Group outpatient therapy, which shall:
1. Be provided to promote the:
a. Health and wellbeing of the client; or
b. Recovery from a substance related disorder;
2. Consist of a face-to-face behavioral health therapeutic intervention provided in accordance with the client’s plan of care;
3. Excluding multi-family group therapy, be provided in a group setting of nonrelated individuals, not to exceed twelve (12) individuals in size. For group outpatient therapy, a nonrelated individual means any individual who is not a spouse, significant other, parent or person with

custodial control, child, sibling, stepparent, stepchild, step-brother, step-sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild;

4. Focus on the psychological needs of the client as evidenced in the client's plan of care;

5. Center on goals including building and maintaining healthy relationships, personal goals setting, and the exercise of personal judgment;

6. Not include physical exercise, a recreational activity, an educational activity, or a social activity;

7. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy [~~per client~~] unless additional time is medically necessary in accordance with 907 KAR 3:130;

8. Ensure that the group has a deliberate focus and defined course of treatment;

9. Ensure that the subject of group outpatient therapy shall be related to each client participating in the group; and

10. Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate who shall maintain individual notes regarding each client within the group in the client's record;

(k) Family outpatient therapy, which shall:

1. Consist of a [~~face-to-face~~] behavioral health therapeutic intervention provided face-to-face or via telehealth through scheduled therapeutic visits between the therapist, at least one (1) member of the client's family, and the client unless the client's presence is not required in his or her plan of care;

2. Address issues interfering with the relational functioning of the family;

3. Seek to improve interpersonal relationships within the client's home environment;

4. Be provided to promote the health and wellbeing of the client or recovery from a substance use disorder;

5. Not exceed three (3) hours per day alone or in combination with any other outpatient therapy [~~per client~~] unless additional time is medically necessary in accordance with 907 KAR 3:130; and

6. Be provided by a behavioral health professional, a behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate;

(l) Collateral outpatient therapy, which shall consist of a face-to-face or telehealth behavioral health consultation:

1. With a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21), household member, legal representative, school personnel, or treating professional;

2. Provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate; and

3. Provided upon the written consent of a parent, caregiver, or person who has custodial control of a client under the age of twenty-one (21). Documentation of written consent shall be signed and maintained in the client's record;

(m) Screening, brief intervention, and referral to treatment for substance use disorders, which shall:

1. Be provided face-to-face or via telehealth;

2. Be an evidence-based early intervention approach for an individual with non-dependent substance use prior to the need for more extensive or specialized treatment;

3.[~~2.~~] Consist of:

a. Using a standardized screening tool to assess the individual for risky substance use behavior;

b. Engaging a client who demonstrates risky substance use behavior in a short conversation, providing feedback and advice; and

c. Referring the client to therapy or other services that address substance use if the client is determined to need additional services; and

4.[~~3.~~] Be provided by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate; [~~or~~]

(n) Targeted case management services, which shall:

1. Include services to an:

a. Adult or a child with substance use disorder; or

b. Adult or child with co-occurring mental health or substance use disorder and chronic or complex physical health issues;

2. Be provided by a targeted case manager [~~as described in subsection (2) or (3) of this section~~]; and

3. Include the following assistance:

a. Comprehensive assessment and reassessment of client needs to determine the need for medical, educational, social, or other services. The reassessment shall be conducted annually or more often if needed based on changes in the client's condition;

b. Development of a specific care plan that[~~which~~] shall be based on information collected during the assessment and revised if needed upon reassessment;

c. Referral and related activities, which may include:

(i) Scheduling appointments for the client to help the individual obtain needed services; or

(ii) Activities that help link the client with medical, social, educational providers, or other programs and services that[~~which~~] address identified needs and achieve goals specified in the care plan;

d. Monitoring, which shall be face-to-face and occur no less than once every three (3) months to determine that:

(i) Services are furnished according to the client's care plan;

(ii) Services in the care plan are adequate; and

(iii) Changes in the needs or status of the client are reflected in the care plan; and

e. Contacts with the client, family members, service providers, or others are conducted as frequently as needed to help the client:

(i) Access services;

(ii) Identify needs and supports to assist the client in obtaining services; and

(iii) Identify changes in the client's needs;

(o) Service planning, which shall be provided face-to-face by a behavioral health professional, behavioral health professional under clinical supervision, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor, or licensed clinical alcohol and drug counselor associate, any of which shall be of the client's choosing to:

1. Assist the client in creating an individualized plan for services and developing measurable goals and objectives needed for maximum reduction of the effects of a substance use disorder or co-occurring disorder;

2. Restore the client's functional level to the client's best possible functional level; and

3. Develop a service plan, which:

a. Shall be directed and signed by the client; and

b. May include:

(i) A mental health advance directive being filed with a local hospital;
(ii) A crisis plan; or
(iii) A relapse prevention strategy or plan; or
(p) Medication assisted treatment with behavioral health therapy, which shall:
1. Exclude methadone-based treatment restricted to licensure in accordance with 908 KAR 1:370 and 908 KAR 1:374;
2. Require an advanced practice registered nurse, a physician, or a physician assistant who prescribes FDA-approved drugs for the treatment of opioid addiction in adult patients to:
a. Document in the patient's record whether or not the patient is compliant with prescribed dosing as evidenced by the results of:
(i) A KASPER report released to the practitioner pursuant to KRS 218A.202(7)(e); and
(ii) Drug testing; and
b. Comply with the prescribing and dispensing standards in 201 KAR 9:270 or 201 KAR 20:065 for FDA-approved drugs used for the treatment of opioid addiction; and
3. Include individual and group outpatient therapy as a service and document monitoring of compliance with recommended non-medication therapies.
(2) [~~A case manager who provides targeted case management services to clients with a substance use disorder shall:~~
~~(a) Be a certified alcohol and drug counselor, meet the grandfather requirements of 907 KAR 15:040, Section 4(1)(a)3, or have a bachelor's degree in a human services field, including:~~
~~1. Psychology;~~
~~2. Sociology;~~
~~3. Social work;~~
~~4. Family studies;~~
~~5. Human services;~~
~~6. Counseling;~~
~~7. Nursing;~~
~~8. Behavioral analysis;~~
~~9. Public health;~~
~~10. Special education;~~
~~11. Gerontology;~~
~~12. Recreational therapy;~~
~~13. Education;~~
~~14. Occupational therapy;~~
~~15. Physical therapy;~~
~~16. Speech-language pathology;~~
~~17. Rehabilitation counseling; or~~
~~18. Faith-based education;~~
~~(b)1. Have a minimum of one (1) year of full-time employment working directly with adolescents or adults in a human service setting after completion of the requirements described in paragraph (a) of this subsection; or~~
~~2. Have a master's degree in a human services field as described in paragraph (a) of this subsection;~~
~~(c)1. Have successfully completed case management training in accordance with 908 KAR 2:260; and~~
~~2. Successfully complete continuing education requirements in accordance with 908 KAR 2:260; and~~
~~(d) Be supervised by a behavioral health professional who:~~

~~1. Has completed case management training in accordance with 908 KAR 2:260; and~~

~~2. Has supervisory contact at least two (2) times per month with at least one (1) of the contacts on an individual in person basis.~~

~~(3) A case manager who provides targeted case management services to clients with a mental health or substance use disorder and chronic or complex physical health issues shall:~~

~~(a) Meet the requirements of subsection (2)(a) of this section;~~

~~(b)1. After completion of a bachelor's degree, have a minimum of five (5) years of experience providing service coordination or referring clients with complex behavioral health needs and co-occurring disorders or multi-agency involvement to community based services; or~~

~~2. After completion of a master's degree in a human services field as described in subsection (2)(a) of this section, have a minimum of two (2) years of experience providing service coordination or referring clients with complex behavioral health needs and co-occurring disorders or multi-agency involvement to community based services;~~

~~(c)1. Have successfully completed case management training in accordance with 908 KAR 2:260; and~~

~~2. Successfully complete continuing education requirements in accordance with 908 KAR 2:260; and~~

~~(d) For a bachelor's level case manager, be supervised by a behavioral health professional who:~~

~~1. Has completed case management training in accordance with 908 KAR 2:260; and~~

~~2. Has supervisory contact at least three (3) times per month with at least two (2) of the contacts on an individual in person basis.~~

~~(4)~~] Plan of care.

(a) Each client receiving outpatient behavioral health services from a chemical dependency treatment program shall have an individual plan of care signed by a behavioral health professional.

(b) A plan of care shall:

1. Describe the services to be provided to the client, including the frequency of services;

2. Contain measurable goals for the client to achieve, including the expected date of achievement for each goal;

3. Describe the client's functional abilities and limitations or diagnosis listed in the current edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders;

4. Specify each staff member assigned to work with the client;

5. Identify methods of involving the client's family or significant others if indicated;

6. Establish[~~Specify~~] criteria to be met for termination of treatment;

7. Include any referrals necessary for services not provided directly by the chemical dependency treatment program; and

8. State the date scheduled for review of the plan.

(c) The client shall participate to the maximum extent feasible in the development of his or her plan of care, and the participation shall be documented in the client's record.

(d)1. The initial plan of care shall be developed through multidisciplinary team conferences at least thirty (30) days following the first ten (10) days of treatment.

2. The plan of care for individuals receiving intensive outpatient program services shall be reviewed every thirty (30) days thereafter and updated every sixty (60) days or earlier if clinically indicated.

3. Except for intensive outpatient program services, the plan of care for individuals receiving any other outpatient behavioral health service established[~~described~~] in subsection (1) of this section shall be reviewed and updated every six (6) months or earlier if clinically indicated.

4. The plan of care and each review and update shall be signed by the participants in the multidisciplinary team conference that developed it.

(3)[(5)] Client Records.

(a) A client record shall be maintained for each individual receiving outpatient behavioral health services.

(b) Each entry shall be current, dated, signed, and indexed according to the service received.

(c) Each client record shall contain:

1. An identification sheet, including the client's name, address, age, gender, marital status, expected source of payment, and referral source;

2. Information on the purpose for seeking a service;

3. If applicable, consent of appropriate family members or guardians for admission, evaluation, and treatment;

4. Screening information pertaining to the mental health or substance use disorder;

5. If applicable, a psychosocial history;

6. If applicable, staff notes on services provided;

7. If applicable, the client's plan of care;

8. If applicable, disposition;

9. If applicable, assigned status;

10. If applicable, assigned therapists; and

11. If applicable, a termination study restating[recapitulating] findings and events during treatment, clinical impressions, and condition on termination.

Section 6. Compliance with Building Codes, Ordinances, and Regulations; Chemical Dependency Treatment Program's Inpatient Facility. (1) The provisions of this administrative regulation shall not relieve the licensee from compliance with building codes, ordinances, and administrative regulations that[which] are enforced by city, county, or state jurisdictions.

(2) The following shall apply:

(a) Requirements for safety pursuant to the National Fire Protection Association 101, Life Safety Code adopted by the Kentucky Department of Housing, Buildings and Construction;

(b) Requirements for plumbing pursuant to 815 KAR 20:010 through 815 KAR 20:195 [20:191]; and

(c) Requirements for making buildings and facilities accessible to and usable by persons with disabilities.

(3) The facility shall be approved by the Fire Marshal's Office before a license or license renewal is granted.

(4) The facility shall receive necessary approval from appropriate agencies prior to occupancy and licensure.

(5) Physical and sanitary environment.

(a) The physical plant and overall facility environment shall be maintained to protect the safety and well-being of patients, personnel, and visitors.

(b) A person shall be designated responsible for services and for the establishment of practices and procedures for[in each of the following areas]:

1. Plant maintenance;

2. Laundry operations either on site or off site; and

3. Housekeeping.

(c) The facility buildings, equipment, and surroundings shall be kept in good repair, neat, clean, free from accumulation of dirt and rubbish, and free from foul, stale, or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. Written housekeeping procedures shall be established for each area, and copies shall be available to personnel.
3. Equipment and supplies shall be provided for cleaning surfaces. The equipment shall be maintained in a safe, sanitary condition.
4. A hazardous cleaning solution, compound, or substance shall be labeled, stored in an approved container, and kept separate from nonhazardous cleaning materials.
5. The facility shall be free from insects, rodents, and their harborage.
6. Garbage and trash shall be stored in closed containers in an area separate from an area used for the preparation or storage of food.
7. The garbage and trash area shall be cleaned regularly and shall be in good repair.
(d) The facility shall have available at all times a quantity of linen essential to the proper care and comfort of residents.
1. Clean linen and clothing shall be stored in clean, dry, dust-free areas designated exclusively for this purpose.
2. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in a separate area ventilated to the exterior of the building.

Section 7. Chemical Dependency Treatment Program's Inpatient Facility Requirements and Special Conditions. (1) Patient rooms. Each patient room shall meet the [~~following~~] requirements established in this subsection.[~~:~~]
(a) The maximum room capacity shall be six (6) patients.
(b) The minimum room area, exclusive of toilet room, closet, locker, wardrobe, or vestibule, shall be:
1. 100 square feet for a one (1) bed room; and
2. Eighty (80) square feet per bed for multibed rooms.
(c)1. Partitions, cubicle curtains, or placement of furniture shall be used to provide privacy in a multiperson room.
2. Ample closet and drawer space shall be provided for the storage of each patient's personal property.
(d) The placement of a patient in a multibed room shall be appropriate to the age and program needs of the patient.
(2) Lavatory.
(a) In a single or multibed room with a private toilet room, the lavatory may be located in the toilet room.
(b) If two (2) or more patients share a common toilet, a lavatory shall be provided in each patient room.
(3) Centralized toilet area.
(a) If a centralized toilet area is used, the facility shall provide, for each gender on each floor, at least one (1) toilet for each eight (8) residents or a major fraction thereof.
(b) Toilets shall be separated by a permanent partition and at least one (1) toilet for each gender shall be designed for wheelchair use.
(4) Patient baths.
(a) There shall be at least one (1) shower stall or one (1) bathtub for each fifteen (15) patients not individually served.
(b) Each bathtub or shower shall provide space for the private use of the fixture and for dressing.
(5) The patient shall be encouraged to take responsibility for maintaining his or her own living quarters and for other day-to-day housekeeping activities of the program, as appropriate to his or her clinical status.

(6) Dietary service.

(a) The facility shall have a dietary department, organized, directed, and staffed to provide quality food service and optimal nutritional care.

1. The dietary service shall be directed on a full-time basis by an individual who, by education or specialized training and experience, is knowledgeable in food service management.

2. The dietary service shall have at least one (1) dietician licensed pursuant to KRS 310.021 to supervise the nutritional aspects of patient care and to approve menus on at least a consultative basis.

3. If food service personnel are assigned a duty outside the dietary department, the duty shall not interfere with the sanitation, safety, or time required for regular dietary assignments.

(b)1. A menu shall be planned, written, and rotated to avoid repetition.

2. Nutritional needs shall be met in accordance with:

a. Recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

b. Physician orders, if applicable.

(c)1. A meal served shall correspond with the posted menu.

2. If a change in the menu is necessary;

a. Substitution shall provide equal nutritive value; and

b. The change shall be recorded on the menu.

3. A menu shall be kept on file for at least thirty (30) days.

(d) Food shall be:

1. Prepared by methods that conserve nutritive value, flavor, and appearance; and

2. Served at the proper temperature.

(e)1. At least three (3) meals shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and breakfast.

2. Each meal shall be served at a regular time and a nourishing between-meal or bedtime snack shall be offered.

(f) Food services shall be provided in accordance with 902 KAR 45:005.

Section 8. Physical environment of an off-campus extension or separate building on the campus of the chemical dependency treatment program's inpatient facility where outpatient behavioral health services are provided. (1) Accessibility. The off-campus extension or separate building on the campus of the chemical dependency treatment program's inpatient facility shall meet requirements for making buildings and facilities accessible to and usable by individuals with physical disabilities pursuant to KRS 198B.260 and 815 KAR 7:120.

(2) Physical location and overall environment.

(a) The program shall:

1. Comply with building codes, ordinances, and administrative regulations that[~~which~~] are enforced by city, county, or state jurisdictions;

2. Display a sign that can be viewed by the public that contains the facility name, hours of operation, and a street address;

3. Have a publicly listed telephone number and a dedicated phone number to send and receive faxes with a fax machine that shall be operational twenty-four (24) hours per day;

4. Have a reception and waiting area;

5. Provide a restroom; and

6. Have an administrative area.

(b) The condition of the physical location and the overall environment shall be maintained in a manner that assures the safety and well-being of clients, personnel, and visitors.

(3) Prior to occupancy, the facility shall have final approval from appropriate agencies.

ADAM D. MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: October 2, 2020

FILED WITH LRC: October 13, 2020 at 12:30 p.m.

CONTACT PERSON: Donna Little, Deputy Executive Director, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact persons: Kara L. Daniel and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum licensure requirements for the operation of chemical dependency treatment programs, including programs that elect to provide outpatient behavioral health services for individuals with a substance use disorder (SUD) or co-occurring disorder in which SUD is the primary diagnosis.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 216B.042(1), which requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, including licensure standards and procedures to ensure safe, adequate, and efficient health services. Additionally, this administrative regulation is necessary to comply with KRS 216B.105, which, unless otherwise exempt, prohibits the operation of a health facility without a Cabinet-issued license.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042 by establishing minimum licensure requirements for the operation of chemical dependency treatment programs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing standards for licensed chemical dependency treatment programs.

(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: This amendment is being filed concurrently with the Department for Medicaid Services administrative regulation, 907 KAR 15:080, Coverage provisions and requirements regarding chemical dependency treatment center services. Key changes to this administrative regulation, 902 KAR 20:160, are as follows:

Amends Section 1(1)(a) to clarify that a psychiatrist, as included under the definition of" "behavioral health professional", may be certified or eligible to apply for certification by the American Osteopathic Board of Neurology;

Updates the definition of "peer support specialist" to include a registered alcohol and drug peer support specialist, and adds clarifying language related to the supervision of peer support specialists;

Adds "targeted case manager" to Section 1, Definitions, and amends Section 5(2) and (3) to delete unnecessarily duplicative language related to case managers because the training requirements and qualifications for targeted case managers are established in 908 KAR 2:260;

Replaces the "detoxification" with "medically monitored intensive inpatient services" and requires the patient to meet the diagnostic criteria for substance intoxication or withdrawal disor-

der as established by the most recent version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) for alcohol, tobacco, and other drug use, and also meet the dimensional criteria for medically monitored intensive inpatient services in accordance with the most recent version of The American Society of Addiction Medicine (ASAM) Criteria;

Allows for screening, assessment, psychological testing, crisis intervention, individual outpatient therapy, family outpatient therapy, collateral outpatient therapy, and screening, brief intervention, and referral to treatment for SUD to be provided via telehealth;

Removes the requirement for crisis intervention to be provided on-site at the program's facility;

Clarifies the number of hours per week that intensive outpatient services may be provided to adolescents; and

Adds service planning and medication assisted treatment as services that may be provided by a chemical dependency treatment program.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to align with the proposed changes to 907 KAR 15:080 and otherwise address necessary housekeeping changes.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 216B.042 because it establishes minimum licensure requirements for the operation of chemical dependency treatment centers.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing standards for licensed chemical dependency treatment centers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects the three (3) currently licensed chemical dependency treatment centers.

(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: Entities licensed in accordance with this administrative regulation are required to comply with the standards established by this administrative regulation, including the following:

Must operate a structured inpatient program to provide medical, social, diagnostic, and treatment services to individuals with SUD;

Must ensure that inpatient services are provided under the medical direction of a physician;

Must provide continuous nursing services;

May provide one (1) or more of the following outpatient behavioral health services: screening, assessment, psychological testing, crisis intervention, mobile crisis services, day treatment, peer support, intensive outpatient program services, individual outpatient therapy, group outpatient therapy, family outpatient therapy, collateral outpatient therapy, screening, brief intervention, and referral to treatment for SUD, targeted case management, service planning, or medication assisted treatment;

Must be in compliance with federal, state, and local laws and administrative regulations pertaining to the operation of the chemical dependency treatment program;

Must have a governing authority;

Must have a program administrator, interdisciplinary team, and treatment director;

Must maintain administrative policies, including patient care, patient rights, and personnel policies;

Must have a program for in-service training;

Must maintain client records in accordance with federal privacy and confidentiality rules;
Must have a process for quality assurance;
Must comply with requirements for administration and storage of medications;
Must post a daily schedule of activities;
Must comply with the requirements for providing medically monitored intensive inpatient services, rehabilitation services, physical examination of the patient, psychosocial history, and development of that patient's treatment plan and aftercare plan;
Must maintain compliance with applicable state and local laws relating to construction, plumbing, safety, and sanitation; and
Must maintain compliance with basic facility requirements for patient rooms, bathrooms, meal service, and overall physical environment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to chemical dependency treatment centers to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Licensed chemical dependency treatment centers may enroll in the Kentucky Medicaid Program for reimbursement of covered services provided to Medicaid recipients in need of medically monitored intensive inpatient services, or outpatient services for the treatment of substance use disorder (SUD) or co-occurring disorder in which SUD is the primary diagnosis.

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

(a) Initially: There are no additional costs to the cabinet for implementation of this administrative regulation.

(b) On a continuing basis: There are no additional costs to the cabinet for implementation of this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies are used to implement and enforce this administrative regulation.

(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: No increase in fees or funding is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities who elect to be regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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 Cabinet for Health and Family Services, Office of Inspector General, and licensed chemical dependency treatment centers.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042 and 216B.105

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? In accordance with 902 KAR 20:008, Section 3(2), the Cabinet collects a fee of $1,000 + $25 per bed from each chemical dependency treatment program. In accordance with this administrative regulation, the Cabinet collects $250 for each outpatient extension site. These fees are existing provisions and have not been amended in this amendment.

(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? In accordance with 902 KAR 20:008, Section 3(2), the Cabinet collects a fee of $1,000 + $25 per bed from each chemical dependency treatment program. In accordance with this administrative regulation, the Cabinet collects $250 for each outpatient extension site. These fees are existing provisions and have not been amended in this amendment.

(c) How much will it cost to administer this program for the first year? This amendment imposes no additional costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This amendment imposes no additional costs on the administrative body.

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

Revenues (+/-): See response above.

Expenditures (+/-): This administrative regulation is anticipated to have minimal fiscal impact to the cabinet.

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 C.F.R. Part 2, 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d-2 - 1320d-8, 42 U.S.C. 209ee-3, 20 U.S.C. 1400, 29 U.S.C. 701

2. State compliance standards. KRS 216B.042, 216B.105

3. Minimum or uniform standards contained in the federal mandate. 42 C.F.R. Part 2 prohibits programs from disclosing any information that would identify a person as having or having had substance use disorder, unless that person provides written consent. 45 C.F.R. 160, 164, and 42 U.S.C. 1320d-2 – 1320d-8 establish the HIPAA privacy rules to protect individuals' medical records and other personal health information. 42 U.S.C. 209ee-3 pertains to the confidentiality of patient records. 20 U.S.C. 1400 is the Individuals with Disabilities Education Act. 29 U.S.C. 701 is Section 504 of the Rehabilitation Act.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose requirements that are more strict than federal laws or regulations.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.