

908 KAR 1:400. Licensing and standards for substance use and misuse prevention.

RELATES TO: KRS Chapter 13B, 61.870 to 61.884, 194A.005, 194A.070, 209.030, 222.003, 222.005(2), 222.221, 222.990, 223.231, 620.030

STATUTORY AUTHORITY: 194A.050, KRS 222.211, 222.231

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050 and 222.231 require the Cabinet for Health and Family Services to promulgate administrative regulations necessary to establish requirements and standards for licensing alcohol and other drug prevention (AODP) agencies. KRS 194A.050 requires the secretary to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. This administrative regulation establishes licensing requirements for AODP.

Section 1. Definitions.

- (1) "Alcohol and other drug use prevention agency" or "AODP" is defined as an agency that develops, provides, and coordinates prevention services, including training and technical assistance services, that address substance use and misuse and related consequences.
- (2) "Cabinet" is defined by KRS 194A.005.
- (3) "Certified prevention specialist" means an individual who is certified by the Kentucky Certification Board for Prevention Professionals.
- (4) "Coalition" means a partnership of community stakeholders working to reduce alcohol, tobacco, and other drug use and misuse problems and related consequences through community-wide prevention strategies.
- (5) "Consumer" means the recipient of prevention services.
- (6) "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities.
- (7) "International Certification and Reciprocity Consortium" or "ICRC" means the organization that establishes the standards of practice in addiction counseling, prevention, and clinical supervision through testing and credentialing of addiction professionals.
- (8) "Kentucky Certification Board for Prevention Professionals" or "KCBPP" means an ICRC member board that establishes competency-based certification for prevention specialists that promotes and maintains integrity and quality of service for alcohol, tobacco, and other drug prevention.
- (9) "Prevention" means the act of preventing use and misuse of alcohol, tobacco, and other drugs and the related consequences.
- (10) "Prevention Director" means a certified prevention specialist who manages AODP staff, serves as liaison between the AODP and the department, and is responsible for developing the annual plan and budget documents for the AODP.
- (11) "Prevention Specialist" means a paid staff, excluding clerical staff, employed by an AODP actively involved in the development and implementation of substance use and misuse prevention services.
- (12) "Regional Prevention Center" or "RPC" means a program funded and licensed by the department for the purpose of developing, providing, and coordinating prevention training and technical assistance services that address substance use and misuse and the related consequences.

Section 2. Licensing Procedures.

- (1) An AODP receiving remuneration for any prevention program, and any RPC, shall not operate without first obtaining an AODP license from the cabinet, in accordance with

the procedures of 908 KAR 1:370, unless the AODP is exempted under KRS 222.003(1) and (2).

(2) Any AODP operating a program without first obtaining a license shall be subject to penalties pursuant to KRS 222.990(2).

(3) An application for licensure, incorporated by reference in 908 KAR 1:370, shall be submitted in writing to the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621.

(4) An application for:

(a) Licensure shall be accompanied by a fee of \$155; or

(b) Renewal shall be accompanied by a fee of eighty (80) dollars.

(5) The license shall remain in effect for one (1) year from the date of issuance and may be renewed, unless a failure to comply with licensure standards causes the license to be:

(a) Revoked; or

(b) Suspended.

(6) The license shall be conspicuously posted in a public area at the AODP and shall indicate the year the license was issued or renewed.

(7) An application for licensure or renewal may include an on-site inspection by cabinet representatives to determine compliance with licensure standards.

(8) The applicant shall provide the cabinet or its representatives access during normal hours of operation to any area of the facility and any document needed to complete the inspection.

(9) The cabinet shall notify the AODP in writing of any violation of licensure standards identified during the inspection.

(10) The AODP shall submit to the cabinet a written plan of correction within ten (10) calendar days of receipt of the notice of violation.

(11) The correction plan shall specify the:

(a) Corrective action to be taken; and

(b) Date when each violation shall be corrected.

(12) The certificate of licensure shall be the property of the cabinet and shall be returned upon closure or revocation of the license.

(13) The cabinet shall make available to the public a list of all licensed alcohol and other drug prevention agencies and may issue revisions and corrections to this list as changes occur.

Section 3. Changes in AODP Status.

(1) An AODP shall notify the cabinet within ten (10) working days of a change in:

(a) Name;

(b) Location;

(c) Ownership; or

(d) Discontinuance of services.

(2) If there is a change in AODP name, ownership, or location, the cabinet may issue a new license for the remainder of the current licensure period.

Section 4. Physical Plant. There shall be written housekeeping, sanitation, and maintenance procedures, which shall be followed at all times to ensure that the AODP shall be clean and in good repair.

Section 5. Organization and Administration. Governing body.

(1) An AODP shall have a governing body with overall authority and responsibility for the AODP's operation.

(2) The governing body shall have written documentation to show the AODP is a legal entity in the Commonwealth of Kentucky by means of a partnership agreement, articles of incorporation, legislative act, or executive order.

(3) The responsibilities of the governing body shall be specified in writing and shall include:

- (a) Adopting a mission statement that outlines the AODP's purpose;
- (b) Adopting a conflict of interest policy to govern participation by a governing body member in a decision that may be influenced by a member's business interest;
- (c) Appointing an executive director who shall be responsible for the day-to-day operation of the AODP;
- (d) Adopting an administrative structure and establishing a line of authority for all prevention programs operated by the AODP;
- (e) Documenting administrative structure and lines of authority on an organizational chart, including the name of each current governing board member;
- (f) Adopting written policies and procedures to direct administrative and program functions of the AODP to ensure that sufficient staff and resources are available for the successful delivery of programs;
- (g) Reviewing written prevention policies and procedures at least every two (2) years and making needed revisions and incorporating relevant findings of the AODP's quality assurance system;
- (h) Overseeing a system of financial management and accountability;
- (i) Completing an annual training on alcohol and other drug prevention for members of a multiservice board that provide oversight to the prevention program; and
- (j) Meeting as a whole at least quarterly and keeping a written record demonstrating the ongoing discharge of its responsibilities.

Section 6. Staffing and Staff Qualifications.

- (1) A prevention specialist shall be certified by the Kentucky Certification Board for Prevention Professionals and ICRC as a Certified Prevention Specialist within thirty-six (36) months of initial employment.
- (2) The AODP shall designate one (1) individual as the prevention director who shall:
 - (a) Be certified by the KCBPP as a Certified Prevention Specialist; and
 - (b)
 1. Have a bachelor's degree plus five (5) years of work experience in prevention or the related fields of health, social science, marketing, communication, or education;
 - or
 2. Have a master's degree with two (2) years of work experience in prevention or the related fields of health, social science, marketing, communication, or education.
- (3) The AODP shall designate an individual to serve as an ombudsman who shall be responsible for responding to:
 - (a) Staff or consumer complaints; and
 - (b) Staff or consumer grievances.

Section 7. Personnel and Employment Practices.

- (1) The AODP shall have written policies and procedures governing employment practices for AODP employees and subcontractors which shall include:
 - (a) Protection from discrimination against any employee or prospective employee based on:
 1. Gender;
 2. Age;
 3. Race;
 4. Ethnicity;
 5. Religious affiliation; and
 6. Disability including prior history of alcohol or other drug abuse;
 - (b) Personnel policies addressing:
 1. Recruitment;

2. Hiring;
 3. Promotion;
 4. Discipline; and
 5. Termination;
- (c) Procedures for conducting background checks on any individual working with minors to assure that there is no:
1. Record of conviction related to abuse or molestation of children from the:
 - a. Administrative Office of the Courts; or
 - b. Kentucky State Police; and
 2. Individual employed listed on the central registry established by 922 KAR 1:470;
- (d) Procedures for a central registry check that has been submitted for an individual and is pending, which shall include:
1. Provisional hiring of the individual pending the results of the registry check;
 2. A requirement that the individual shall not be left unsupervised with a client under eighteen (18) years of age; and
 3. A requirement that the individual shall be dismissed immediately if the results of the check show the individual is listed on the central registry;
- (e) Procedures ensuring that criminal record checks as described in paragraph (c) of this subsection shall be completed annually on a random sample of at least twenty-five (25) percent of all personnel;
- (f) Maintenance of personnel records for each staff member, which shall contain the following:
1. Application for employment;
 2. Job specifications;
 3. Written references;
 4. Results of background check;
 5. Documentation of:
 - a. Education;
 - b. Work experience;
 - c. Training; and
 - d. Status of professional licensure, certification, and registration;
 6. Salary information;
 7. Job performance appraisals;
 8. Disciplinary actions;
 9. Commendations; and
 10. Employee incident reports;
- (g) Written job specifications for all positions identifying the:
1. Qualifications;
 2. Duties;
 3. Reporting supervisor; and
 4. Positions supervised;
- (h) Explanation of:
1. Employee benefits;
 2. Training and staff development opportunities;
 3. Safety and work related injury procedures;
 4. Employee grievance procedures;
 5. Rules of conduct; and
 6. Compensation plan;
- (i) Information on equal employment opportunities and affirmative action policies;
- (j) A provision for ensuring an alcohol and drug-free workplace to include actions taken when an employee is involved in the unlawful manufacture, distribution, possession, or use of alcohol or any controlled substance at the AODP;

- (k) A provision for yearly job appraisal for each employee, which includes an evaluation based on objective criteria of each employee's performance in relation to their expected job duties;
 - (l) Ethical standards identifying acceptable employee conduct regarding consumers' rights;
 - (m) Conflict of interest policies governing dual relationships with other legal entities;
 - (n) Provisions to assure the confidentiality of personnel records;
 - (o) A provision for providing an employee with access to that employee's personnel record; and
 - (p) Provisions for the storage and retention of personnel records.
- (2) A staff member shall be given access to a copy of the AODP's policies and procedures at the time of employment and shall be notified of a revision when it is made.

Section 8. AODP Staff Responsibilities.

- (1) AODP staff shall:
- (a) Provide prevention services, including training and technical assistance, with a primary content that specifically addresses substance use and misuse and its related consequences;
 - (b) Utilize the Substance Abuse and Mental Health Services Administration (SAMHSA) approved evidence-based decision-making model for delivery of prevention services;
 - (c) Utilize the Center for Substance Abuse Prevention's primary prevention strategies found at <https://www.samhsa.gov/grants/block-grants/sabg> for delivery of prevention services; and
 - (d) Utilize evidence-based or evidence-informed programs and activities in delivery of services.
- (2) AODP and staff shall not provide intervention and recovery programs for persons who are in need of substance use and misuse treatment.

Section 9. Quality Assurance.

- (1) Staff development.
- (a) The AODP shall establish a system of on-going staff development to include training and supervision of all prevention staff that shall:
 - 1. Be outlined in the AODP's policies and procedures manual; and
 - 2. Support the attainment of the goals and objectives of the prevention program.
 - (b) The AODP shall make required training available to staff.
 - (c) The completion of each training shall be documented in staff personnel records and shall identify the:
 - 1. Name of the training;
 - 2. Clock hours earned; and
 - 3. Dates attended.
- (2) Program quality assurance. The AODP shall have written policies and procedures for assuring the quality of each program operated by the AODP that shall include the following:
- (a) Designation of the individual responsible for monitoring and evaluating the quality assurance activities;
 - (b) Description of the range of activities and services provided in each program;
 - (c) A statement of intended program outcomes and indicators of effectiveness; and
 - (d) Establishment of a mechanism and a schedule for the collection, organization, and analysis of data to:
 - 1. Be used for process evaluation;
 - 2. Be used for outcome evaluation; and
 - 3. Determine the quality of the service.

Section 10. Consumer Rights. An AODP shall have written policies and procedures for ensuring the rights of the consumer that shall include:

- (1) An assurance that there shall be no unlawful discrimination in determining eligibility for admission to a prevention program;
- (2) A statement of consumer rights posted in the AODP with the name, address, and telephone number of the AODP's ombudsman;
- (3) Assurance of the confidentiality of consumer's substance use and misuse; and
- (4) Posting of the grievance procedure in the AODP, which shall include at a minimum:
 - (a) The period for reviewing and responding to a consumer complaint;
 - (b) A requirement for documentation of a grievance in the:
 1. Consumer record; and
 2. Central AODP incident file; and
 - (c) A requirement that a grievance alleging abuse or neglect be referred in accordance with:
 1. KRS 209.030 regarding the abuse or neglect of an adult; and
 2. KRS 620.030 regarding the abuse or neglect of a minor.

Section 11. Complaints.

- (1) A suspected violation of a licensure standard shall be reported to the cabinet.
- (2) The complainant and information related to a suspected violation shall be kept confidential and shall not be disclosed publicly during an investigation. Once the investigation is complete, disclosure of the information shall be subject to the provisions of KRS 61.870 to 61.884.
- (3) The cabinet shall conduct an investigation and inspections based upon a complaint.

Section 12. Denial, Revocation, and Reapplication. The cabinet shall deny or revoke a license if:

- (1) It finds that there has been a failure with the provisions of this administrative regulation and an acceptable corrective action plan is not completed;
- (2) Access is denied to the cabinet or its representatives during normal hours of operation to any area of the facility and any document needed to complete an inspection;
- (3) The cabinet finds that the licensee misrepresented or submitted false information to the cabinet;
- (4) The cabinet has probable cause to believe that continued operation would constitute an immediate danger to the health, welfare, or safety of clients;
- (5) The AODE fails to comply with the annual renewal process;
- (6) An individual having a significant financial interest in the AODP has, within the seven (7) year period prior to the application date, had significant financial interest in a facility or service that was licensed or certified by the cabinet, and the license or certificate to operate was denied, suspended, revoked, or voluntarily relinquished as the result of an investigation or adverse action that placed patients, residents, or clients at risk of death or serious harm;
- (7) An individual having significant financial interest in the AODP has been:
 - (a) Previously discontinued or disqualified from participation in any governmental assistance program due to fraud or abuse of the program; or
 - (b) The subject of disciplinary action taken against the individual by a professional licensing board for misconduct related to endangering a patient or client;
- (8) The licensee commits fraud in obtaining a license or in connection with a service provided; or
- (9) The licensee fails to comply with a cabinet approved corrective action plan.

Section 13. Penalties.

- (1) Denial or revocation of a license.

(a) Plan of correction.

1. An AODP shall submit to the cabinet, within ten (10) calendar days of a notice of a violation, a written plan for the correction of the regulatory violation.
2. The plan of correction shall be signed by the AODP's administrator, the licensee, or a person designated by the licensee and shall specify:
 - a. The date by which the violation shall be corrected;
 - b. The specific measures utilized to correct the violation; and
 - c. The specific measures utilized to ensure the violation will not recur.
3. The cabinet shall review the plan of correction and notify the AODP in writing of the decision to:
 - a. Accept the plan;
 - b. Not accept the plan; or
 - c. Deny, suspend, or revoke the license for a substantial regulatory violation in accordance with KRS 222.231(6).
4. If the cabinet finds the statement of correction unacceptable, the cabinet shall notify the AODP:
 - a. Of the specific reasons the plan is unacceptable; and
 - b. That an amended plan of correction is required within ten (10) calendar days of receipt of the notice by the AODP.
5. The cabinet shall review the amended plan of correction and notify the AODP in writing of the decision to:
 - a. Accept the plan;
 - b. Deny, suspend, or revoke the license for a substantial regulatory violation; or
 - c. Require the AODE to submit an acceptable plan of correction.
6. An AODP that fails to submit an acceptable amended plan of correction may be notified that the license will be denied, suspended, or revoked.

(b) Denial of an application for licensure. If an application for licensure is denied, the legal entity named in the application may reapply for a license in accordance with Section 2 of this administrative regulation after a period of:

1. One (1) year from the date of denial; or
2. Thirty (30) days from the date an application for licensure was withdrawn by the AODP.

(2) Reapplication. The legal entity named in the application may reapply for a license in accordance with Section 2 of this administrative regulation after a period of one (1) year from the date of revocation.

Section 14. Appeals.

- (1) If the cabinet takes action to deny or revoke an AODP license in accordance with KRS 222.231(6), the cabinet shall notify the AODP in writing stating the reason for the adverse action and the AODP's right to appeal to the cabinet.
 - (2) The cabinet shall conduct the hearing in accordance with KRS Chapter 13B.
 - (3) An AODP that continues to operate after the closing date established by the secretary, or designee, shall be subject to action by the cabinet as provided by law.
- (39 Ky.R. 1348; 1706; eff. 3-8-2013; TAm eff. 4-27-2016; Crt eff. 12-18-2019; 47 Ky.R. 456, 1404; eff. 2-4-2021.)