

## **922 KAR 5:020. Batterer intervention provider certification standards.**

RELATES TO: KRS Chapter 13B, 202A.011(12)(d), 202A.400, 209.030, Chapter 209A, 222.005, 309.080-309.089, 309.130-309.1399, Chapters 311, 319, 335.080, 335.100, 335.300-335.399, 335.500-335.599, 403.715-403.785, 421.570, Chapters 456, 506, 507, 507A, 508, 509, 510, 511.020-511.040, 511.085, 512.020, Chapters 513, 515, 517.050, Chapter 529, 530.020, 530.060, 530.064, 530.065, 530.070, 531.030, 531.040, 531.300-531.370, 620.030, and 45 C.F.R. Part 46

STATUTORY AUTHORITY: KRS 194A.050(1), 403.7505

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate 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. KRS 403.7505 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing certification standards for mental health professionals providing court-ordered treatment services for domestic violence offenders. This administrative regulation establishes certification requirements, standards for services, and reporting requirements for a domestic and dating violence and abuse batterer intervention provider.

### Section 1. Definitions.

- (1) "Appellant" means an applicant or a provider who requests:
  - (a) An informal resolution meeting in accordance with Section 13 of this administrative regulation; or
  - (b) An administrative hearing in accordance with Section 14 of this administrative regulation.
- (2) "Applicant" means an individual applying for certification as a domestic and dating violence and abuse batterer intervention provider.
- (3) "Assessment" means an evaluation of a batterer in accordance with Section 9(1) of this administrative regulation.
- (4) "Associate provider" means an individual certified by the cabinet to provide domestic and dating violence and abuse batterer intervention services in accordance with Section 4(1) or 5(2) of this administrative regulation, only under the direct supervision of an autonomous provider.
- (5) "Autonomous provider" means a professional certified by the cabinet in accordance with Section 4(2) or (4) of this administrative regulation for unsupervised clinical practice in a domestic and dating violence and abuse batterer intervention program.
- (6) "Batterer" means an individual who:
  - (a) Has been charged with or convicted of a criminal offense related to domestic or dating violence and abuse;
  - (b) Is a respondent in a protective order issued by a court pursuant to KRS 403.740, 403.750(1), 456.030, or 508.155(4); or
  - (c) Is a substantiated perpetrator in a child abuse or neglect investigation with domestic or dating violence and abuse allegations and has been referred by the department.
- (7) "Cabinet" means the Cabinet for Health and Family Services or its designee.
- (8) "Client" means a batterer who has been admitted to a program.
- (9) "Court" means a district, family, or circuit court of the Commonwealth of Kentucky.
- (10) "Court-ordered" means subject to an order entered by a district, family, or circuit court judge for a batterer to be assessed by a provider to determine the batterer's eligibility for admission to a program or to participate in a program.
- (11) "Dating violence and abuse" is defined by KRS 456.010(2).
- (12) "Department" means the Department for Community Based Services or its designee.

- (13) "Domestic violence and abuse" is defined by KRS 403.720(1).
- (14) "Domestic violence shelter" means a program meeting the standards of 922 KAR 5:040.
- (15) "Intervention" means individual or group counseling and education based upon a core curriculum that focuses on cessation of domestic and dating violence and abuse.
- (16) "Program" means the services provided in accordance with Sections 5 through 12 of this administrative regulation to batterers who have been referred by a court for assessment or intervention related to domestic and dating violence and abuse.
- (17) "Provider" means an associate provider or an autonomous provider.
- (18) "Sanction" means a compulsory or restrictive action, such as:
- (a) A prohibition, requirement, limitation, or other condition affecting the freedom of a person;
  - (b) Withholding of relief;
  - (c) Imposition of a penalty or fine;
  - (d) Destruction, seizure, or withholding of property;
  - (e) Assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees; or
  - (f) Revocation or suspension of a license.
- (19) "Screening" means the action taken by a provider to determine a batterer's eligibility for admission to the program.
- (20) "Victim" means a person of any age who is experiencing or has experienced domestic violence and abuse or dating violence and abuse.
- (21) "Victim advocate" is defined by KRS 421.570.

## Section 2. Certification Procedures.

- (1) An individual may apply to be certified as an associate provider or an autonomous provider by submitting a DVPR-001, Application for Batterer Intervention Provider Certification, to the department.
- (2) If an applicant is not subject to denial or revocation for a reason established in Section 3 of this administrative regulation, the department shall certify the applicant as an:
- (a) Associate provider, if the applicant meets the qualifications specified in Section 4(1) of this administrative regulation; or
  - (b) Autonomous provider, if the applicant meets the qualifications specified in Section 4(2) of this administrative regulation.
- (3)
- (a) No later than sixty (60) days after receiving an application or receiving additional documentation, the department shall notify an applicant in writing if:
    - 1. Certification is granted or denied; or
    - 2. The department is retaining the application in accordance with Section 3(2) of this administrative regulation.
  - (b) The notice in accordance with paragraph (a) of this subsection shall:
    - 1. Specify the effective date of certification, if applicable;
    - 2. Specify the basis of the denial of the application, if applicable;
    - 3. Specify additional documentation that is required if the department retains the application in accordance with Section 3(2) of this administrative regulation; and
    - 4. Inform the applicant of the right to appeal a denial in accordance with the:
      - a. Informal resolution process established in Section 13 of this administrative regulation; and
      - b. Administrative hearing process established in Section 14 of this administrative regulation.
- (4) Certification as a provider shall be effective for two (2) years.
- (5)

- (a) Unless a provider's certification has been revoked in accordance with Section 3 of this administrative regulation, the department shall renew the certification of a provider upon request.
- (b) Completion of sixteen (16) hours of continuing education related to domestic and dating violence and abuse, pursuant to Section 6(9) of this administrative regulation, shall be required for certification renewal.
- (c) The department shall perform a random audit on five (5) percent of the certification renewals to monitor provider compliance with paragraph (b) of this subsection.
- (6) The department may solicit references from individuals outside of the department regarding the certification of providers.

### Section 3. Denial or Revocation of Certification.

- (1) The department shall deny certification to an applicant if:
  - (a) The applicant's DVPR-001 is incomplete;
  - (b) The documentation of qualifications is insufficient to demonstrate that the applicant meets the applicable requirements established in Section 4 of this administrative regulation;
  - (c) The department cannot verify the authenticity of the documentation of qualifications submitted in the application; or
  - (d) The core curriculum submitted fails to meet the requirements established in Section 10 of this administrative regulation.
- (2) If the department denies certification in accordance with subsection (1)(a) of this section, the department may retain the application and permit the applicant to submit additional documentation in accordance with a notice provided pursuant to Section 2(3)(b)3. of this administrative regulation.
- (3) The department shall deny certification to an applicant and shall revoke the certification of a provider any time after the effective date of certification upon the department's determination that the applicant or provider:
  - (a) Within the past ten (10) years, has been convicted of, pled guilty to, or completed the service of a sentence imposed for:
    1. Criminal homicide pursuant to KRS Chapter 507;
    2. Assault or a related offense pursuant to KRS Chapter 508;
    3. Kidnapping or a related offense pursuant to KRS Chapter 509;
    4. A sexual offense pursuant to KRS Chapter 510;
    5. Burglary or a related offense pursuant to KRS 511.020 through 511.040;
    6. Domestic violence shelter trespass pursuant to KRS 511.085;
    7. Criminal damage to property pursuant to KRS 512.020;
    8. Robbery pursuant to KRS Chapter 515;
    9. Falsifying business records as defined in KRS 517.050 if the conviction was in relation to the applicant's clinical practice;
    10. Incest as defined in KRS 530.020;
    11. Endangering the welfare of a minor as defined in KRS 530.060;
    12. Unlawful transaction with a minor as defined in KRS 530.064, 530.065, or 530.070;
    13. Sexual exploitation of a minor pursuant to KRS 531.300 to 531.370;
    14. Criminal attempt, as defined in KRS 506.010, to commit an offense identified in this paragraph;
    15. Distribution of obscene materials involving a minor pursuant to KRS 531.030 or 531.040;
    16. Prostitution or related offense pursuant to KRS Chapter 529;
    17. Arson as defined in KRS Chapter 513; or
    18. Fetal homicide as defined in KRS Chapter 507A;

- (b) Has been the subject of a domestic or dating violence and abuse protective order pursuant to KRS 403.740 or an interpersonal protective order pursuant to KRS 456.060 within the five (5) years prior to the date of the application or any time after the effective date of certification;
  - (c) Has experienced substance use disorder as defined in KRS 222.005(12) within the two (2) years prior to the date of the application, or engages in alcohol or drug abuse any time after the effective date of certification; or
  - (d) Is subject to a current court order restraining or enjoining the applicant from providing a service authorized by licensure or certification.
- (4) Depending on the severity or date of the infraction, the department may deny an application or revoke the certification of a provider who:
- (a) Has had a sanction applied against or a revocation of a professional license or certification held by the applicant or provider at any time in the two (2) years prior to the date of an application or any time after being certified;
  - (b) Currently has a sanction applied against a professional license or certification;
  - (c) Has provided domestic and dating violence and abuse batterer assessment or intervention services in violation of Section 5(2) or (3) of this administrative regulation;
  - (d) Has failed to implement a corrective action plan in accordance with Section 12(6) or (7) of this administrative regulation;
  - (e) Has failed to follow the curriculum submitted in the application or submitted and approved in accordance with Section 10(11) of this administrative regulation;
  - (f) Has failed to meet a requirement established in Sections 2 through 11 of this administrative regulation;
  - (g) Has provided information that the department:
    - 1. Is unable to verify; or
    - 2. Has determined to be incorrect; or
  - (h) Has failed to meet the data submission requirements established in Section 6(10) of this administrative regulation.
- (5) The department shall revoke the certification of a provider that fails to meet the continuing education requirement established in Section 6(9) of this administrative regulation.
- (6)
- (a) If a provider's certification is revoked, the department shall notify a provider in writing.
  - (b) A notice in accordance with paragraph (a) of this section shall:
    - 1. Specify the effective date that certification shall be revoked;
    - 2. Specify the basis of the determination to revoke a certification; and
    - 3. Inform the provider of the right to appeal the revocation in accordance with the:
      - a. Informal resolution process established in Section 13 of this administrative regulation; and
      - b. Administrative hearing process established in Section 14 of this administrative regulation.
- (7) A provider whose certification is revoked in accordance with subsection (3)(b) of this section shall be ineligible for certification until the fifth anniversary of the effective date of the revocation.
- (8) A provider whose certification is revoked in accordance with subsection (3)(c) of this section shall be ineligible for certification until the second anniversary of the effective date of the revocation.
- (9) The department shall renew the certification of a provider whose certification has been revoked in accordance with Section 6(9) of this administrative regulation upon the

department's receipt of documentation that the provider has met the requirement of Section 2(5) of this administrative regulation.

#### Section 4. Qualifications of Certified Providers.

- (1) The qualifications of an associate provider shall be:
  - (a) A bachelor's degree from an accredited university or college;
  - (b) Completion of twenty-four (24) hours of specialty training in domestic and dating violence and abuse including:
    1. Characteristics and dynamics of domestic and dating violence and abuse;
    2. Clinical profiling of batterers;
    3. Risk assessment and lethality of batterers;
    4. Intervention of batterers;
    5. Effective services for victims and child witnesses of domestic and dating violence and abuse;
    6. Understanding intersections and barriers to services for vulnerable populations;
    7. Safety planning and harm reduction for victims;
    8. Criminal sanctions for domestic and dating violence and abuse and legal remedies for victims;
    9. Mandatory reporting of suspected abuse, neglect, or dependency; and
    10. Reporting and educational requirements established in KRS Chapter 209A;
  - (c) Two (2) years of full-time post bachelor degree work experience totaling at least 4,000 hours that shall include general clinical experience or direct case experience related to domestic and dating violence and abuse;
  - (d) A written agreement to receive supervision, which shall include:
    1. Case discussion;
    2. Review of reading assignments;
    3. Skill building; or
    4. Review of an audio or video recording of assessment and intervention performed by the associate provider; and
  - (e) Written recommendations for certification from two (2) victim advocates, at least one (1) of whom works in an agency separate from the applicant.
- (2) The qualifications of an autonomous provider shall be:
  - (a) A Master's degree from an accredited university or college;
  - (b) Possession of a certificate or license to practice under the laws of the Commonwealth of Kentucky in one (1) of the following disciplines:
    1. Psychology in accordance with KRS Chapter 319;
    2. Social work in accordance with KRS 335.080 or 335.100;
    3. Medicine in accordance with KRS Chapter 311 if board eligible in psychiatry and neurology;
    4. Psychiatric nursing in accordance with KRS 202A.011(12)(d);
    5. Marriage and family therapy in accordance with KRS 335.300 to 335.399;
    6. Professional counseling in accordance with KRS 335.500 to 335.599;
    7. Art therapy in accordance with KRS 309.130 to 309.1399; or
    8. Alcohol and drug counseling in accordance with KRS 309.080 to 309.089;
  - (c) 150 hours of clinical experience providing domestic and dating violence and abuse services under the direct supervision of an autonomous provider who is licensed or certified in accordance with paragraph (b) of this subsection of which 120 hours of the time shall have been with batterers and thirty (30) hours with victims;
  - (d) Documentation certifying completion of a three (3) hour training program in clinical supervision that has been approved by a professional licensing board referenced in paragraph (b) of this subsection;
  - (e) Completion of the training required by subsection (1)(b) of this section;

- (f) A written recommendation for certification from the autonomous provider who provided the supervision required by paragraph (c) of this subsection; and
  - (g) Written recommendations for certification from two (2) victim advocates, at least one (1) of whom works in an agency separate from the applicant.
- (3) The cabinet shall grant certification as a provider to an applicant from another state:
- (a) Meeting or exceeding the standards of subsection (1) or (2) of this section;
  - (b) Holding a current certificate or license from another state;
  - (c) Being in good standing with the other state's certifying agency; and
  - (d) Complying with the training and application requirements of subsection (1)(b) of this section.
- (4) The cabinet shall waive the requirements of subsection (2) of this section, if an associate provider applies for certification as an autonomous provider:
- (a) After two (2) years' experience and a minimum of 4,000 hours working in a batterer intervention program; and
  - (b) Upon recommendation of the autonomous provider supervising the associate provider.

#### Section 5. Scope of Practice and Supervision Requirements.

- (1) All providers shall perform and document conflict of interest checks prior to providing any service to a victim and ensure compliance with KRS 209A.070.
- (2) Under the supervision of an autonomous provider, an associate provider may:
- (a) Screen, assess, plan, and provide batterer intervention;
  - (b) Consult with a court, prosecutor, law enforcement official, mental health provider, and others regarding the assessment of and intervention with a client; or
  - (c) Contact a victim of a client in accordance with Section 7 of this administrative regulation.
- (3) An associate provider who provides a service in accordance with subsection (2) of this section shall participate in at least one (1) hour per week of clinical supervision pursuant to the written agreement established in Section 4(1)(d) of this administrative regulation.
- (4) An autonomous provider may provide screening, assessment, intervention, and consultation independently and supervise an associate provider if an autonomous provider has:
- (a) Participated in a three (3) hour training program in clinical supervision that has been approved by a professional licensing board specified in Section 4(2)(b) of this administrative regulation, or by the cabinet; and
  - (b) Practiced batterer intervention for a period of at least one (1) year.
- (5) A certified autonomous provider who supervises an associate provider:
- (a) Shall:
    - 1. Provide the supervision required by subsection (2) of this section; and
    - 2. Assure that an associate provider performs a service in accordance with Sections 4, 5(2), 6, 7, 8, 9, 10, 11, and 12(7) of this administrative regulation; and
  - (b) Shall not supervise more than six (6) associate providers concurrently.

#### Section 6. General Service Standards.

- (1) A court-ordered service shall be based on the following premises:
- (a) Domestic and dating violence and abuse constitutes a health hazard to a victim who may experience short and long-term effects from the abuse;
  - (b) Immediate and long-term cessation of the domestic and dating violence and abuse is the priority purpose for batterer intervention;
  - (c) Domestic and dating violence and abuse in any form are criminal behaviors;
  - (d) Batterer intervention shall be designed to enhance and promote the safety of a victim including a spouse, live-in partner, child, or other family member;

- (e) A victim is not responsible for the violent behavior of a batterer and a provider shall not promote the concept of mutual responsibility in explaining domestic and dating violence and abuse;
  - (f) The batterer is accountable for domestic and dating violence and abuse, which is the product of individual choice and learned traits. The batterer's psychopathology, substance abuse, other disorder, or cultural background is not an explanatory cause of domestic and dating violence and abuse, but can influence the batterer's behavior; and
  - (g) Cooperation and service coordination between the criminal justice system, the department, a victim's advocate, a domestic violence shelter, and a chemical dependency or mental health professional may be required to assure effective treatment and the safety of a victim or a potential victim.
- (2) A provider shall give each client a written document that explains the complaint process of the program.
- (3) A provider shall:
- (a) Treat all clients with respect and dignity at all times; and
  - (b) Not discriminate against any client based on race, ethnicity, gender, age, religion, or disability.
- (4)
- (a) A batterer, a client, or a victim shall have the right to complain verbally or in writing to the:
    - 1. Provider;
    - 2. Referring court; or
    - 3. Cabinet.
  - (b) A provider shall not take adverse action against a batterer, a client, or a victim who makes a complaint.
- (5) A provider shall:
- (a) Comply with 45 C.F.R. Part 46, and any applicable state institutional review board pertaining to research with a human subject; and
  - (b) Protect the privacy of a batterer or a client who gives consent to participate in provider sponsored research.
- (6) A provider shall:
- (a) Provide a clean and comfortable facility that shall be handicap accessible; and
  - (b) Meet the requirements of 815 KAR 10:060, relating to standards of fire safety.
- (7) The provider shall comply with federal and state law applicable to the confidentiality of a client record.
- (8) The provider shall establish an individual record for each client who receives a court-ordered service. The record shall:
- (a) Document each service provided to the client; and
  - (b) Demonstrate that the services meet the requirements of Sections 6 through 11 of this administrative regulation.
- (9) A provider shall accrue a minimum of sixteen (16) hours of continuing education related to domestic and dating violence and abuse during the two (2) year period for renewal.
- (10) Providers certified pursuant to Section 2 of this administrative regulation shall collect and submit information to the department in accordance with KRS 403.7505.

#### Section 7. Contact with a Victim.

- (1) In the provider's professional opinion, if contacting a domestic or dating violence and abuse victim would not increase the risk of harm to the victim or others, a provider may attempt to contact the victim and shall:
- (a) Offer the victim an opportunity to participate in the assessment of the batterer by disclosing information about the batterer and the circumstances of the domestic or

dating violence and abuse;

- (b) Assure the victim the source of the information will not be revealed to the batterer;
- (c) Inform the victim that disclosure of child abuse, neglect, or dependency or vulnerable adult abuse, neglect, or exploitation is required to be reported;
- (d) Provide the victim information about the program, its possible benefits, the limitations of the program's intervention services, and the degree to which the batterer's participation may result in increased safety for the victim; and
- (e) Make reasonable efforts to refer a victim to a domestic violence shelter, victim advocate, or another program designated to provide specialized victim services.

(2) A provider shall document each contact with a victim.

(3) A provider shall not contact a victim in the presence of a batterer.

(4) If a victim does not consent to participate, withdraws consent to participate, or refuses to participate or provide information about a batterer or a client, a provider shall not attempt to coerce or persuade the victim to participate.

(5) If a provider does not contact a victim, the provider shall document the reasons for this decision in the client record.

#### Section 8. Screening Procedures.

(1) A provider shall establish:

(a) Eligibility criteria for participation in a program that:

- 1. Requires that the batterer sign an authorization to disclose to a victim the batterer's failure to participate in or discharge from the program;
- 2. May include a batterer's admission of responsibility for a domestic or dating violence and abuse related offense; and
- 3. Shall not be based solely on the ability to pay for services;

(b) A procedure to accept a referral from a court following a charge of a domestic or dating violence and abuse related offense as a condition of a protective order issued pursuant to KRS 403.740, 403.750(1), or 508.155(4);

(c) A procedure to accept a referral from the department; and

(d) A procedure for notifying the referring court or department if a batterer is ineligible for the program. The notice shall:

- 1. Specify the reason a batterer is determined to be ineligible in accordance with the eligibility criteria established by the provider pursuant to paragraph (a) of this subsection;
- 2. Specify each referral made in accordance with Section 9(3) and (4) of this administrative regulation, if any;
- 3. Be made no later than five (5) days after the determination is made;
- 4. Recommend a service more likely to benefit the batterer, in the provider's professional opinion; and
- 5. Recommend that the court notify a victim pursuant to KRS 403.7505(3)(e) that the batterer is ineligible for the program.

(2) A provider shall inform a batterer of the following information prior to the batterer receiving an assessment or intervention:

(a) The requirement for confidentiality of information and the limit on confidentiality including:

- 1. The duty of a provider to warn and protect an intended victim of a threat to harm, as required by KRS 202A.400;
- 2. The requirement to report abuse in accordance with KRS 209.030 and 620.030; and
- 3. The fact that information disclosed to the provider or to another client may be used against the batterer in a civil or criminal proceeding;

(b) The requirement of a court order, a statute, or an administrative regulation that imposes a duty upon the provider to disclose information or make a report pertaining to the batterer or the client to:

1. A court;
2. A prosecutor;
3. A probation or parole officer;
4. A law enforcement agent;
5. The victim; or
6. Another person or organization that may be involved in the assessment of the batterer or the intervention of the client;

(c) The information provided in accordance with paragraph (b) of this subsection, which shall include:

1. The name of the person, if known, and the title of the agency or organization to whom information shall be disclosed, or to whom a report shall be made;
2. The basis of the duty to disclose information or to make a report; and
3. The condition under which information shall be disclosed or a report made;

(d) The batterer's responsibility to pay for an assessment or intervention in accordance with KRS 403.7505(3)(g), the cost to the batterer, and the provider's policy regarding failure to pay;

(e) The expected length of intervention and the procedure for voluntary and involuntary discharge from the program;

(f) An explanation of the provisions in Section 6 of this administrative regulation;

(g) A description of the assessment and intervention that shall be provided to the batterer including the requirements for participation;

(h) Notification that, at the discretion of the court, failure to comply with the program may result in a citation for contempt of court; and

(i) An explanation of the procedures for a victim to participate in the program in accordance with Sections 7 and 10(13) of this administrative regulation.

#### Section 9. Assessment and Admission Procedures.

(1)

(a) If a batterer is determined to be eligible for a batterer intervention program based on eligibility criteria established in Section 8(1)(a) of this administrative regulation, the provider shall perform an assessment of the batterer.

(b) The assessment conducted in accordance with paragraph (a) of this subsection shall include consideration of the batterer's:

1. History of abusive behavior, including degree of harm and type of violent conduct, that may include information provided by a victim, referral source, or other involved professional;
2. Criminal history;
3. Risk of harm to self and others;
4. Medical history;
5. History of a mental disorder;
6. Current mental status;
7. History or presence of a substance abuse disorder;
8. Characteristics and ability to benefit from the approved program curriculum; and
9. Relevant public records, including a police report and other information about the batterer.

(2) If requirements of Section 7 of this administrative regulation are met, a provider may interview a victim and consider information provided by a victim in the assessment.

(3) If, based on the assessment required by subsection (1) of this section, the provider determines that a batterer is unlikely to benefit from the program, the provider shall

document the reasons for the determinations and refer the batterer to a service that is more likely to benefit the batterer in the provider's professional opinion.

(4) A provider may require a batterer to participate in mental health or substance use disorder treatment as a prerequisite for admission to or completion of the domestic and dating violence and abuse program.

(5) A provider shall notify the referring court or department whether the batterer is admitted to the program or is referred to another program or service:

(a) No later than five (5) days after making the assessment required by subsection (1) of this section; and

(b) Within seventy-two (72) hours, if the provider chooses not to admit a batterer to a program based on the batterer's lethality or another factor related to the safety of the victim.

(6) A batterer shall be admitted to a program if the batterer:

(a) Meets the eligibility criteria pursuant to Section 8(1)(a) of this administrative regulation;

(b) Signs a written consent for intervention;

(c) Signs a written agreement to comply with the program requirements; and

(d) Signs a written authorization for a provider to disclose information to a party identified in Section 8(2)(b) of this administrative regulation.

#### Section 10. Intervention Procedures.

(1) A provider shall make individual or group intervention services available to a client at least once weekly.

(2) If a provider offers a group intervention program, the program shall segregate based on gender identity and client safety into separate groups.

(3) A group intervention shall include:

(a) Between two (2) and twelve (12) clients, unless two (2) providers are present; and

(b) No more than twenty (20) clients if two (2) providers are present.

(4) A group intervention session shall require a client to attend for ninety (90) minutes or longer.

(5) A client shall participate in the program for at least thirty (30) weeks.

(6) A person not referred by a court may participate in a group intervention provided for court-referred clients.

(7) A provider shall establish and follow a core curriculum for group participation that includes:

(a) The definition and dynamics of domestic and dating violence, including physical, sexual, psychological, and environmental abuse;

(b) The immediate and long-term effects of domestic and dating violence and abuse on victims and those who witness it, including children, and Adverse Childhood Experiences;

(c) Discussion of civil and criminal law related to domestic and dating violence and abuse;

(d) Instruction about personal responsibility for domestic and dating violence and abuse;

(e) Confrontation of the client's use of power, control, and coercion in an intimate relationship;

(f) Confrontation of rigid sex role stereotyping;

(g) Challenge of the client's pattern of aggression in a conflict with a victim;

(h) Exploration of the actual and perceived role of alcohol and drug abuse in the domestic and dating violence and abuse;

(i) Exploration of a constructive and nonviolent method for resolving conflict in a relationship;

- (j) Exploration of life experiences and belief systems that have fostered choices for violent behavior;
  - (k) Safety planning and knowledge of domestic and dating violence and abuse resources;
  - (l) Parenting after violence, including education on pediatric abusive head trauma;
  - (m) Development of a relapse prevention technique; and
  - (n) Promotion of aftercare services and the development of an aftercare plan.
- (8) At the discretion of the provider's professional opinion, a provider may offer individual intervention to a client if the client would:
- (a) Not benefit from a group intervention; or
  - (b) Be disruptive to a group setting.
- (9) If a client participates in individual intervention, the:
- (a) Curriculum content of the individual intervention shall contain the core curriculum in accordance with subsection (7) of this section;
  - (b) Provider shall document a minimum of thirty-two (32), one (1) hour intervention sessions; and
  - (c) Provider shall document why individual intervention was preferred.
- (10) A provider shall document factors, other than the referral source, that make a client eligible for a program based on gender identity.
- (11)
- (a) The department may approve an amendment to a provider's core curriculum if the provider submits to the department:
    - 1. A written request for approval of an amended core curriculum;
    - 2. An explanation of the purpose for the amendment; and
    - 3. The proposed amended core curriculum.
  - (b) The department shall notify the provider in writing if an amended curriculum is approved or disapproved no later than thirty (30) days after the date that the department receives the request.
  - (c) The notice provided in accordance with paragraph (b) of this subsection shall:
    - 1. Specify the effective date of the approval, if granted;
    - 2. Specify which of the requirements of subsection (7) of this section that the amended curriculum does not meet, if it is disapproved; and
    - 3. Acknowledge the right to dispute a disapproval in accordance with Sections 13 and 14 of this administrative regulation.
- (12) If a client of a program makes a threat of physical violence against a clearly identified or reasonably identifiable person, including a victim, or an actual threat of a specific violent act, a provider shall comply with the warning requirements of KRS 202A.400.
- (13) If a client is discharged from a program, a provider shall notify a victim in accordance with Section 7 of this administrative regulation.
- (14) A provider shall not offer or provide marital counseling or family therapy to an existing or former client or a victim:
- (a) Unless the client:
    - 1. Has successfully completed the program; and
    - 2. Has not demonstrated violence in the relationship with a victim for at least six (6) months; and
  - (b) If:
    - 1. There is a foreseeable risk of harm to the victim which may result from the marital services; or
    - 2. The provider believes that the victim may agree to participate because of coercion or threat from the client.

## Section 11. Involuntary Discharge from a Program.

- (1) A provider shall involuntarily discharge a client who:
  - (a) Fails to attend more than three (3) scheduled appointments;
  - (b) Fails to actively participate in services or to complete assignments;
  - (c) Violates a provision of a court order; or
  - (d) After admission to the program, perpetrates domestic or dating violence and abuse or other behavior that, in the provider's professional judgment, is associated with increased risk of harm to the victim.
- (2) A provider may involuntarily discharge a client who fails to pay for assessment or intervention:
  - (a) As agreed; or
  - (b) As ordered by a court.
- (3)
  - (a) A provider shall notify the referring court or department in writing upon the provider's determination that a client shall be discharged in accordance with subsection (1) or (2) of this section.
  - (b) The notice provided in accordance with paragraph (a) of this subsection shall:
    1. Specify the reason for the discharge; and
    2.
      - a. Be made no later than five (5) days after the determination; or
      - b. Be made no later than seventy-two (72) hours if the determination is made in accordance with subsection (1)(d) of this section.
- (4) If the discharge is pursuant to subsection (1)(d) of this section, a provider shall:
  - (a) Immediately attempt to notify the victim in accordance with Section 10(13) of this administrative regulation; and
  - (b) Document each effort to notify the victim.
- (5) A provider may transfer a client to another certified provider, if:
  - (a) The batterer requests;
  - (b) The reason for the client's request is verifiable;
  - (c) The batterer is in good standing in the sending program;
  - (d) The receiving provider accepts the client into the receiving program; and
  - (e) Communication between the sending and receiving providers is documented and includes a mutually agreed upon intervention plan for the batterer.
- (6) If a client is transferred in accordance with subsection (5) of this section, victim notification shall be made pursuant to Section 7 of this administrative regulation.

## Section 12. Monitoring.

- (1) The cabinet shall investigate a signed written or verbal complaint that alleges that a:
  - (a) Provider has failed to adhere to the requirements in Section 2 through 11 of this administrative regulation; or
  - (b) Provider's practice may endanger a client or victim.
- (2) The cabinet may conduct periodic provider reviews to:
  - (a) Determine if a provider is in compliance with the requirements established in the requirements in Sections 2 through 11 of this administrative regulation; and
  - (b) Evaluate overall quality of services provided.
- (3) A cabinet's review or an investigation of a provider shall consist of one (1) or more of the following:
  - (a) An interview with a certified provider or other employee of the agency;
  - (b) A review of administrative records;
  - (c) A review of client records;
  - (d) Off-site monitoring by cabinet staff using data submitted in accordance with Section 6(10) of this administrative regulation;

- (e) Observation of an assessment or intervention, unless a batterer or client objects to being observed;
  - (f) Interviews with one (1) or more of the following:
    - 1. A batterer or client who consents to an interview;
    - 2. A victim who consents to an interview;
    - 3. A judge or other personnel of the referring court or agency;
    - 4. A probation or parole officer;
    - 5. A case worker for the cabinet; or
    - 6. Personnel from any other agency who:
      - a. May make a referral for court-ordered domestic and dating violence and abuse batterer intervention services;
      - b. Interacts with a provider; or
      - c. Has knowledge about the provider's practice;
  - (g) Physical inspection of a provider's facility; or
  - (h) The review of other materials necessary to determine compliance with Sections 2 through 11 of this administrative regulation and KRS 403.7505.
- (4) The cabinet shall refer an allegation with any indication that a provider may have violated a requirement of a professional licensure or certification board to a board or entity that has jurisdiction over the provider.
- (5) Based on the information obtained in accordance with subsection (1), (2), or (3) of this section, the cabinet may determine that a program:
- (a) Does or does not meet the requirements of Sections 2 through 11 of this administrative regulation; and
  - (b) Is endangering a client or a victim.
- (6)
- (a) If the cabinet determines that a certified provider has failed to meet the requirements of Sections 2 through 11 of this administrative regulation or is endangering a client or a victim, the cabinet shall notify the provider in writing of its determination.
  - (b) Based upon findings of an investigation or provider review, the cabinet may:
    - 1. Require the provider to submit a corrective action plan;
    - 2. Impose a corrective action plan upon the provider; or
    - 3. Revoke a provider's certification in accordance with Section 3(3) or (4) of this administrative regulation.
- (7) If the cabinet determines that the associate provider has failed to meet a requirement specified in Section 5(3) of this administrative regulation, the:
- (a) Cabinet shall notify an autonomous provider who supervises an associate provider; and
  - (b) Autonomous provider shall be responsible to assure that corrective action is taken.
- (8) A review or investigation conducted by the cabinet shall include precautions to avoid risk or harm to a client or a domestic and dating violence and abuse victim.

### Section 13. Informal Resolution of Disputes Prior to Hearing.

- (1) An applicant or provider may request an informal resolution meeting if the applicant or provider wishes to appeal:
  - (a) The denial of an application;
  - (b) The revocation of certification;
  - (c) A determination made in accordance with Section 12(5) of this administrative regulation; or
  - (d) A determination, which is specified in a notice, provided in accordance with Section 10(11)(b) of this administrative regulation.
- (2) A request for an informal resolution meeting shall:

- (a) Identify the disputed determination or action;
  - (b) State the basis on which the department's action is believed to be unwarranted or erroneous;
  - (c) Summarize the appellant's position;
  - (d) Provide the name, address, and telephone number of each individual who is expected to attend an informal resolution meeting on the appellant's behalf, if a meeting is held; and
  - (e) Include documentary evidence that the appellant wishes the department to consider in relation to the dispute.
- (3) A request for an informal resolution meeting shall not be considered a request for an administrative hearing.
- (4) The department shall, within thirty (30) days of receipt of a request made in accordance with subsection (1) of this section, notify the appellant in writing of the following:
- (a) The time and place at which the informal resolution meeting shall be held;
  - (b) The name and title of the department's representative who is expected to attend the meeting;
  - (c) The provisions of subsections (3) and (9) of this section; and
  - (d) The provisions of Section 14(1) of this administrative regulation.
- (5) The informal resolution meeting shall be scheduled for a date no later than sixty (60) days after receipt of a request submitted in accordance with subsection (1) of this section.
- (6) Prior to an informal resolution meeting, the department may rescind the disputed action or determination based on the contents of the request.
- (7) The department shall cancel an informal resolution meeting if:
- (a) It rescinds the disputed action or determination in accordance with subsection (6) of this section;
  - (b) It informs the appellant of the decision to rescind the disputed determination or action at least three (3) business days prior to the scheduled date of the meeting; and
  - (c) The appellant agrees to cancellation of the meeting.
- (8) The department shall document the actions taken in accordance with subsection (7) of this section.
- (9) If an informal resolution meeting is held, the department shall notify the appellant in writing no later than thirty (30) days after the meeting if it shall rescind, modify, or enforce the disputed action, and the facts upon which its decision is based.
- (10) An appellant may request an administrative hearing in accordance with Section 14(1) of this administrative regulation at any time during the informal resolution process established in this section.

#### Section 14. Administrative Hearing Process.

- (1) A completed DPP-154, Protection and Permanency Service Appeal Request, incorporated in 922 KAR 1:320, requesting an administrative hearing shall be received by the department no later than thirty (30) calendar days after the date of notice of a determination or a resolution decision, whichever is later. The request shall be sent to the Batterer Intervention Program Administrator, Department for Community Based Services, Division of Protection and Permanency, 275 East Main Street, Frankfort, Kentucky 40621.
- (2) An administrative hearing shall be conducted by a hearing officer who is knowledgeable of cabinet policy. The secretary of the cabinet shall appoint the hearing officer pursuant to KRS 13B.030.
- (3) The department shall forward to the hearing officer an administrative record, which shall include:
- (a) A copy of the notice of action taken;

- (b) A copy of the request for an informal resolution meeting, if applicable;
  - (c) The documentation required by Section 13(8) of this administrative regulation if applicable;
  - (d) A copy of the notice provided by the department in accordance with Section 13(9) of this administrative regulation; and
  - (e) Documentary evidence provided by the appellant to the department.
- (4) The hearing officer shall provide notice of a hearing in accordance with KRS 13B.050.
- (5) A prehearing conference may be held at least seven (7) calendar days in advance of the hearing date. Conduct of the prehearing conference shall comply with KRS 13B.070. Each party shall disclose the evidence that the party intends to introduce at the hearing, including documentary evidence and identification of witnesses.
- (6) A request for a hearing shall be considered to be abandoned, if the appellant does not appear at the hearing on the scheduled date and the hearing has not been previously rescheduled. A hearing request shall be withdrawn only under the following circumstances:
- (a) The hearing officer receives a written statement from the appellant stating that the request is withdrawn; or
  - (b) The appellant states on the record at the hearing that the request is withdrawn.
- (7) Documentary evidence to be used at the hearing shall be made available in accordance with KRS 13B.090.
- (8) The hearing officer shall conduct the hearing in accordance with KRS 13B.080.
- (9) The hearing officer shall consider the facts as presented at the hearing, including supplementary material, if requested, and prepare a recommendation in accordance with KRS 13B.110.
- (10) The hearing officer's recommendation shall be submitted to the secretary of the cabinet and to the department. The department and the appellant shall have fifteen (15) calendar days within which to file with the secretary exceptions to the hearing officer's recommendation in accordance with KRS 13B.110(4). The secretary shall make the final decision of the cabinet pursuant to KRS 13B.120, supported by findings of fact and conclusions of law.
- (11) In the correspondence transmitting the decision, clear reference shall be made to the availability of judicial review pursuant to KRS 13B.140 and 13B.150.
- (12) The department shall maintain an official record of the hearing in compliance with KRS 13B.130.

#### Section 15. Incorporation by Reference.

- (1) "DVPR-001, Application for Batterer Intervention Provider Certification", 07/2021, is incorporated by reference.
  - (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 E. Main Street,, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.
- (25 Ky.R. 734; 1082; 1393; eff. 11-18-1998; 26 Ky.R. 233; 620; eff. 9-15-1999; 27 Ky.R. 867; 1265; eff. 11-17-2000; 29 Ky.R. 1899, 2291; eff. 3-19-2003; Recodified from 908 KAR 2:210, eff. 4-4-2007; 35 Ky.R. 1657; 1774; eff. 2-18-2009; Recodified from 920 KAR 2:020, eff. 2-1-2019; 47 Ky.R. 2486; 48 Ky.R. 382; eff. 8-26-2021.)