CABINET FOR HEALTH AND FAMILY SERVICES
Department for Behavioral Health, Developmental and Intellectual Disabilities
Division of Mental Health
(New Administrative Regulation)

908 KAR 2:095. Assessment and Transportation of Children Experiencing a Behavioral Health Crisis.

RELATES TO: KRS 61.878, 61.884, 210.040, 446.010(31), Chapter 645, 42 U.S.C. Sec. 1320d et seq., 45 C.F.R. Parts 160, 162, and 164

STATUTORY AUTHORITY: KRS 645.250

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 645.250 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations to implement the provisions of KRS Chapter 645. This administrative regulation establishes the cabinet's services and procedures for transporting children for involuntary hospitalization evaluations and treatment, the rights of children who are held for evaluation, legal proceedings and requirements, and planning and coordinating the required services.

Section 1. Definitions.

(1) "Child" or "children" means a person under the age of eighteen (18).

(2) "Community mental health center" or "CMHC" means a center that meets the community mental health center requirements established in 902 KAR 20:091.

(3) "Contract mental health evaluator" means a qualified mental health professional who is employed by or under contract with a community mental health center, crisis stabilization unit, hospital, or any other facility designated by the cabinet to provide mental health evaluations to determine whether a child meets the criteria for involuntary hospitalization.

(4) "Danger to self or others" is defined by KRS 645.020(2).

(5) "Evaluation" means a mental health evaluation performed by a qualified mental health professional conducted to determine if a child meets the criteria for involuntary hospitalization.

(6) "Facility" means a hospital or mental health facility used for the purpose of conducting an evaluation pursuant to KRS Chapters 645.

(7) "Health Insurance Portability and Accountability Act" or "HIPAA" means:

(a) The Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), as amended; and

(b) The implementing regulations codified at 45 C.F.R. Parts 160, 162, and 164.

(8) "Hold", "held", or "holding" means the detainment of a child who is reasonably believed to be a danger to self, or others:

(a) That is time-limited, not to exceed twenty-four (24) hours; and

(b) For an evaluation.

(9) "Hospital" is defined by KRS 645.020(3).

(10) "Involuntary hospitalization" means:

(a) An emergency admission authorized by a staff physician pursuant to 645.120(2)(b); or

(b) A court ordered admission:

1. For an evaluation pursuant to KRS 645.120(3)(b); or
2. For hospitalization pursuant to KRS 645.100(3).

(11) "Mental health facility" is defined by KRS 645.020(5).

(12) "Mental health professional", "qualified mental health professional", or "QMHP" is defined by KRS 645.020(7).

(13) "Mentally ill child" or "mentally ill" is defined by KRS 645.020(8).

(14) "Peace officer" is defined by KRS 446.010(31).

(15) "Providers of transportation services" means providers of emergency or nonemergency transportation services that are designated or authorized by the cabinet including:

(a) Peace officers and ambulance services; or

(b) Service providers or agencies on contract with the cabinet.

(16) "Voluntary hospitalization" means hospital admission in accordance with KRS 645.030, including by:

(a) Parental or custodial admission; or

(b) Self-admission of a child who is at least sixteen (16) years old.

Section 2. Transportation.

(1) A provider of transportation services shall transport children pursuant to KRS 645.100 or 645.120:

(a) For an evaluation, involuntary hospitalization, or transfer; and

(b) To the location of the child's, or child's legal guardian's, choice in either the child's home county or county where the holding originated, if:

1. The evaluation criteria are not met; or

2. Upon hospital discharge.

(2) The provider of transportation services transporting a child under KRS Chapter 645 shall:

(a) Not use sirens or emergency lights of any kind except in a bona fide emergency;

(b) Not hold the child in a secure juvenile detention facility unless a status or public offense action is pending pursuant to KRS 645.120(1) and 645.280;

(c) Use the least restrictive level of restraint necessary; and

(d) If transporting for an emergency admission evaluation under KRS 645.100 or 645.120, document and provide the following information to the receiving facility:

1. How the situation was brought to the attention of the provider of transportation services;

2. The behavior that caused the child to be taken into custody; and

3. The facts supporting the determination that the child may be mentally ill, which causes the child to present as a danger to self or others.

(3) Payment for transportation pursuant to KRS 645.120 shall be made pursuant to this subsection.

(a) A provider of transportation services shall be paid by the CMHC, except as provided in paragraphs (b) and (c) of this subsection.

(b) If upon discharge, or upon determination that the evaluation criteria are not met, a child is transported by a person or entity other than those described in paragraph (a) of this subsection, payment shall be the responsibility of the:

1. Facility, if the respective facility selects and arranges an alternative transportation;

2. CMHC, if the respective CMHC selects and arranges an alternative transportation; or

3. Child, or the child's legal guardian, if the child or the child's legal guardian declines the offered transportation or selects and arranges an alternate form of transportation.

(c) No payment shall be made by the CMHC if reimbursement of these costs is otherwise available from private insurance, Medicare, Medicaid, or other sources of payment.

(d) The authority of the cabinet to negotiate rates of reimbursement and enter into arrangements with providers of transportation services may be delegated to the CMHC.

(e) Reimbursement of transportation costs may be negotiated by the CMHC in accordance with the CMHC's contract with the cabinet.

Section 3. Children's Rights.

(1) Use of restraints by a provider of transportation services, physician, facility, or facility staff.

(a) Restraints shall not be used unless the child exhibits, or is threatening to exhibit, assaultive or self-injurious behavior.

(b) Restraints may be applied through physical contact or devices used by providers of transportation services or facilities, in a manner consistent with the practice of each profession or be applied through the appropriate use of medications ordered by a licensed physician and administered by a qualified health care professional.

(c) Use of restraints shall be documented in writing, and shall include:

1. The reason for using the restraint;
2. Type of restraint used;
3. When the restraint was initiated; and
4. Length of time the restraint was used, or if medication was used, name of medication, dosage, and effect on the child.

(d) Documentation concerning the use of restraint by providers of transportation services shall be given to:

1. The qualified mental health professional who performs the evaluation; and
2. The facility where the child is being held or treated.

(2) Privacy.

(a) A provider of transportation services, facilities, or facility staff shall maintain the child's privacy during the holding and evaluation period. The psychiatric condition or other medical or personal information regarding the child shall only be disclosed to:

1. Persons acting under the provisions of KRS Chapter 645;
2. The child;
3. The child's legal guardian;
4. The child's parent(s) or person exercising custodial control or supervision of the child; or
5. Any person given legal authority to receive that information on the child's behalf.

(b) The qualified mental health professional shall:

1. Ensure compliance with HIPAA; and
2. Make all reasonable efforts to conduct evaluations in private spaces to maintain a child's privacy.

(c) Pursuant to KRS 61.878 and 61.884, the evaluator or other facility staff shall inform the child and legal guardian of the child of how to request the child's:

1. Transportation documentation;
2. Holding documentation; and
3. Medical record.

(3) Phone calls.

(a) At the time of holding, the provider of transportation services shall allow the child to make phone calls at the earliest opportunity available or inform the child that reasonable access to telephone communication shall be offered at the facility.

(b) The facility staff shall:

1. Inform the child of the availability of phone calls;
2. Provide telephone communications to the child at the earliest opportunity available; and
3. Assist the child in making phone calls, as applicable, to persons of their choice.

Section 4. CHMCs' and contract mental health evaluators' responsibilities.

(1) Under the authority of KRS 210.040, the cabinet may delegate to the CMHCs and contract mental health evaluators the responsibility to plan, prepare written protocols, and coordinate services as provided within KRS Chapter 645.

(2) The CMHC or contract mental health evaluator shall:

(a) Designate:

1. Locations for the purpose of conducting evaluations; and

2. How evaluations shall be conducted, including in-person, via telehealth, or both;

(b) Ensure evaluations are conducted in private spaces to maintain an individual's privacy;

(c) Notify providers of transportation services, district judges, and the cabinet of the identity and locations that are designated for the purpose of evaluating children;

(d) Make qualified mental health professionals available twenty-four (24) hours per day, seven (7) days per week to perform evaluations; and

(e) Conduct evaluations within three (3) hours of the time of the request, unless extensions of time are negotiated between the involved parties.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

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KATHERINE R. MARKS, Ph. D., Commissioner
STEVEN J. STACK, MD, MBA, Secretary

APPROVED BY AGENCY: November 13, 2026

FILED WITH LRC: November 13, 2026 at 9:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 25, 2027, at 9:00 a.m. Eastern Time or 8:00 a.m. Central Time, using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by January 15, 2027, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through January 31, 2027. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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