

1 AN ACT relating to licensed substance use disorder programs.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 222.231 is amended to read as follows:

- 4 (1) The cabinet shall issue for a term of one (1) year, and may renew for like terms, a
5 license, subject to revocation by it for cause, to any persons, other than a substance
6 use disorder program that has been issued a license by the cabinet entitled
7 "Chemical Dependency Treatment Services" pursuant to KRS 216B.042 or a
8 department, agency, or institution of the federal government, deemed by it to be
9 responsible and suitable to establish and maintain a program and to meet applicable
10 licensure standards and requirements.
- 11 (2) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter
12 13A establishing requirements and standards for licensing agencies and approving
13 programs. The requirements and standards shall include:
- 14 (a) The health and safety standards to be met by a facility housing a program;
- 15 (b) Patient care standards and minimum operating, training, and maintenance of
16 patient records standards;
- 17 (c) Licensing fees, application, renewal and revocation procedures, accreditation
18 requirements, requirements to meet American Society of Addiction
19 Medicine standards, and the procedures for evaluation of the substance use
20 disorder programs; and
- 21 (d) Classification of substance use disorder programs according to type, range of
22 services, and level of care provided.
- 23 (3) The cabinet may establish different requirements and standards for different kinds
24 of programs, and may impose stricter requirements and standards in contracts with
25 agencies made pursuant to KRS 222.221.
- 26 (4) Each agency shall be individually licensed or approved.
- 27 (5) Each agency shall file with the cabinet from time to time, the data, statistics,

1 schedules, or information the cabinet may reasonably require for the purposes of
2 this section.

3 (6) (a) The cabinet shall have authority to deny, revoke, or modify a license in any
4 case in which it finds that there has been a substantial failure to comply with
5 the provisions of this chapter or the administrative regulations promulgated
6 thereunder. The denial, revocation, or modification shall be effected by
7 providing to the applicant or licensee, by certified mail or other method of
8 delivery, which may include electronic service, a notice setting forth the
9 particular reasons for the action. The denial, revocation, or modification shall
10 become final and conclusive thirty (30) days after notice is given, unless the
11 applicant or licensee, within this thirty (30) day period, files a request in
12 writing for a hearing before the cabinet.

13 (b) If the cabinet has probable cause to believe that there is an immediate threat to
14 public health, safety, or welfare, the cabinet may issue an emergency order to
15 suspend the license. The emergency order to suspend the license shall be
16 provided to the licensee, by certified mail or other method delivery, which
17 may include electronic service, a notice setting forth the particular reasons for
18 the action.

19 (7) Any person required to comply with an emergency order issued under subsection (6)
20 of this section may request an emergency hearing within five (5) calendar days of
21 receipt of the notice to determine the propriety of the order. The cabinet shall
22 conduct an emergency hearing within ten (10) working days of the request for a
23 hearing. Within five (5) working days of completion of the hearing, the cabinet's
24 hearing officer shall render a written decision affirming, modifying, or revoking the
25 emergency order. The emergency order shall be affirmed if there is substantial
26 evidence of a violation of law that constitutes an immediate danger to public health,
27 safety, or welfare. The decision rendered by the hearing officer shall be a final order

1 of the cabinet on the matter, and any party aggrieved by the decision may appeal to
2 the Franklin Circuit Court.

3 (8) If the cabinet issues an emergency order, the cabinet shall take action to revoke the
4 facility's license if:

5 (a) The facility fails to submit a written request for an emergency hearing within
6 five (5) calendar days of receipt of the notice; or

7 (b) The decision rendered under subsection (7) of this section affirms that there is
8 substantial evidence of an immediate danger to public health, safety, or
9 welfare.

10 (9) (a) The cabinet, after holding a hearing conducted by a hearing officer appointed
11 by the secretary and conducted in accordance with KRS Chapter 13B, may
12 refuse to grant, suspend, revoke, limit, or restrict the applicability of or refuse
13 to renew any agency license or approval of programs for any failure to meet
14 the requirements of its administrative regulations or standards concerning a
15 licensed agency and its program.

16 (b) Within five (5) working days of completion of a hearing on an emergency
17 suspension or within thirty (30) calendar days from the conclusion of a
18 hearing on the denial, revocation or modification of a license, the findings and
19 recommendations of the hearing officer shall be transmitted to the cabinet,
20 with a synopsis of the evidence contained in the record and a statement of the
21 basis of the hearing officer's findings.

22 (c) A petition for judicial review shall be made to the Franklin Circuit Court in
23 accordance with KRS Chapter 13B.

24 (10) No person, excepting a substance use disorder program that has been issued a
25 license by the cabinet entitled "Chemical Dependency Treatment Services" pursuant
26 to KRS 216B.042 or a department, agency, or institution of the federal government,
27 shall operate a program without a license pursuant to this section.

1 (11) (a) Within one (1) year of obtaining a substance use disorder program license
2 to provide residential substance use disorder treatment an entity shall:

3 1. Be accredited by one (1) of the following:

4 a. Joint Commission;

5 b. Commission on Accreditation of Rehabilitation Facilities;

6 c. Council on Accreditation; or

7 d. A nationally recognized accreditation organization; and

8 2. Possess an appropriate level of care certification in accordance with
9 the American Society of Addiction Medicine (ASAM) criteria.

10 (b) A licensed substance use disorder program providing residential substance
11 use disorder treatment may request a one (1) time only, one (1) year
12 extension to complete the accreditation and ASAM level of care certification
13 process. A request for an extension shall:

14 1. Be submitted in writing to the Office of Inspector General at least sixty
15 (60) days prior to the date of annual renewal;

16 2. Include evidence that the program has initiated the process of
17 becoming accredited and certified within sixty (60) days of initial
18 licensure and is continuing its efforts to obtain accreditation and
19 certification; and

20 3. Include an estimated timeframe by which approval of accreditation
21 and certification is anticipated.

22 (c) A substance use disorder program providing residential treatment that has a
23 license on the effective date of this Act shall possess accreditation and an
24 appropriate ASAM level of care certification by one (1) year after the
25 effective date of this Act.

26 (12) Each program operated by a licensed agency shall be subject to visitation and
27 inspection by the cabinet and the cabinet shall inspect each agency prior to granting

1 a license. The cabinet shall inspect each nonaccredited agency at least annually
2 thereafter. If an agency is fully accredited by the Joint Commission, Commission on
3 Accreditation of Rehabilitation Facilities, Council on Accreditation, or other
4 nationally recognized accrediting organization with comparable standards, the
5 cabinet shall inspect the agency at least every two (2) years. The cabinet may
6 examine the books and accounts of any program if it deems the examination
7 necessary for the purposes of this section.

8 ~~(13)~~[(12)] The director may require agencies that contract with the Commonwealth
9 pursuant to KRS 222.221 to admit as an inpatient or outpatient any person to be
10 afforded treatment pursuant to this chapter, subject to service and bed availability
11 and medical necessity.

12 ~~(14)~~[(13)] The cabinet shall promulgate administrative regulations pursuant to KRS
13 Chapter 13A governing the extent to which programs may be required to treat any
14 person on an inpatient or outpatient basis pursuant to this chapter, except that no
15 licensed hospital with an emergency service shall refuse any person suffering from
16 acute alcohol or other drug intoxication or severe withdrawal syndrome from
17 emergency medical care.

18 ~~(15)~~[(14)] All narcotic treatment programs shall be licensed under this section prior to
19 operation. The cabinet shall promulgate administrative regulations pursuant to KRS
20 Chapter 13A to establish additional standards of operation for narcotic treatment
21 programs. The administrative regulations shall include minimum requirements in
22 the following areas:

- 23 (a) Compliance with relevant local ordinances and zoning requirements;
- 24 (b) Submission of a plan of operation;
- 25 (c) Criminal records checks for employees of the narcotic treatment program;
- 26 (d) Conditions under which clients are permitted to take home doses of
27 medications;

- 1 (e) Drug screening requirements;
- 2 (f) Quality assurance procedures;
- 3 (g) Program director requirements;
- 4 (h) Qualifications for the medical director for a narcotic treatment program, who
5 at a minimum shall:
 - 6 1. Be a board-eligible psychiatrist licensed to practice in Kentucky and
7 have three (3) years' documented experience in the provision of services
8 to individuals with a substance use disorder; or
 - 9 2. Be a physician licensed to practice in Kentucky and be board certified as
10 an addiction medicine specialist;
- 11 (i) Security and control of narcotics and medications;
- 12 (j) Program admissions standards;
- 13 (k) Treatment protocols;
- 14 (l) Treatment compliance requirements for program clients;
- 15 (m) Rights of clients; and
- 16 (n) Monitoring of narcotic treatment programs by the cabinet.