

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **SB 178/GA**

On page 2, by deleting lines 17 to 21 in their entirety and inserting:

"➔Section 2. KRS 222.231 is amended to read as follows:

- (1) The cabinet shall issue for a term of one (1) year, and may renew for like terms, a license, subject to revocation by it for cause, to any persons, other than a substance use disorder program that has been issued a license by the cabinet entitled "Chemical Dependency Treatment Services" pursuant to KRS 216B.042 or a department, agency, or institution of the federal government, deemed by it to be responsible and suitable to establish and maintain a program and to meet applicable licensure standards and requirements.
- (2) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A establishing requirements and standards for licensing agencies and approving programs. The requirements and standards shall include:
 - (a) The health and safety standards to be met by a facility housing a program;
 - (b) Patient care standards and minimum operating, training, and maintenance of patient records standards;
 - (c) Licensing fees, application, renewal and revocation procedures, and the procedures for evaluation of the substance use disorder programs; and
 - (d) Classification of substance use disorder programs according to type, range of services, and level of care provided.

Amendment No. HFA

Rep. Rep. Joni L. Jenkins

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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- (3) The cabinet may establish different requirements and standards for different kinds of programs, and may impose stricter requirements and standards in contracts with agencies made pursuant to KRS 222.221.
- (4) Each agency shall be individually licensed or approved.
- (5) Each agency shall file with the cabinet from time to time, the data, statistics, schedules, or information the cabinet may reasonably require for the purposes of this section.
- (6)
 - (a) The cabinet shall have authority to deny, revoke, or modify a license in any case in which it finds that there has been a substantial failure to comply with the provisions of this chapter or the administrative regulations promulgated thereunder. The denial, revocation, or modification shall be effected by providing to the applicant or licensee, by certified mail or other method of delivery, which may include electronic service, a notice setting forth the particular reasons for the action. The denial, revocation, or modification shall become final and conclusive thirty (30) days after notice is given, unless the applicant or licensee, within this thirty (30) day period, files a request in writing for a hearing before the cabinet.
 - (b) If the cabinet has probable cause to believe that there is an immediate threat to public health, safety, or welfare, the cabinet may issue an emergency order to suspend the license. The emergency order to suspend the license shall be provided to the licensee, by certified mail or other method delivery, which may include electronic service, a notice setting forth the particular reasons for the action.
- (7) Any person required to comply with an emergency order issued under subsection (6) of this section may request an emergency hearing within five (5) calendar days of receipt of the notice to determine the propriety of the order. The cabinet shall conduct an emergency hearing within ten (10) working days of the request for a hearing. Within five (5) working days of completion of the hearing, the cabinet's hearing officer shall render a written

decision affirming, modifying, or revoking the emergency order. The emergency order shall be affirmed if there is substantial evidence of a violation of law that constitutes an immediate danger to public health, safety, or welfare. The decision rendered by the hearing officer shall be a final order of the cabinet on the matter, and any party aggrieved by the decision may appeal to the Franklin Circuit Court.

- (8) If the cabinet issues an emergency order, the cabinet shall take action to revoke the facility's license if:
- (a) The facility fails to submit a written request for an emergency hearing within five (5) calendar days of receipt of the notice; or
 - (b) The decision rendered under subsection (7) of this section affirms that there is substantial evidence of an immediate danger to public health, safety, or welfare.
- (9) (a) The cabinet, after holding a hearing conducted by a hearing officer appointed by the secretary and conducted in accordance with KRS Chapter 13B, may refuse to grant, suspend, revoke, limit, or restrict the applicability of or refuse to renew any agency license or approval of programs for any failure to meet the requirements of its administrative regulations or standards concerning a licensed agency and its program.
- (b) Within five (5) working days of completion of a hearing on an emergency suspension or within thirty (30) calendar days from the conclusion of a hearing on the denial, revocation or modification of a license, the findings and recommendations of the hearing officer shall be transmitted to the cabinet, with a synopsis of the evidence contained in the record and a statement of the basis of the hearing officer's findings.
- (c) A petition for judicial review shall be made to the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (10) No person, excepting a substance use disorder program that has been issued a license by the cabinet entitled "Chemical Dependency Treatment Services" pursuant to KRS 216B.042 or

a department, agency, or institution of the federal government, shall operate a program without a license pursuant to this section.

- (11) Each program operated by a licensed agency shall be subject to visitation and inspection by the cabinet and the cabinet shall inspect each agency prior to granting a license. The cabinet shall inspect each nonaccredited agency at least annually thereafter. If an agency is fully accredited by the Joint Commission, Commission on Accreditation of Rehabilitation Facilities, Council on Accreditation, or other nationally recognized accrediting organization with comparable standards, the cabinet shall inspect the agency at least every two (2) years. The cabinet may examine the books and accounts of any program if it deems the examination necessary for the purposes of this section.
- (12) The director may require agencies that contract with the Commonwealth pursuant to KRS 222.221 to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter, subject to service and bed availability and medical necessity.
- (13) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the extent to which programs may be required to treat any person on an inpatient or outpatient basis pursuant to this chapter, except that no licensed hospital with an emergency service shall refuse any person suffering from acute alcohol or other drug intoxication or severe withdrawal syndrome from emergency medical care.
- (14) All narcotic treatment programs shall be licensed under this section prior to operation. **Licensed narcotic treatment programs shall have the authority to use buprenorphine products that are approved by the United States Food and Drug Administration for the treatment of substance use disorder.** The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish additional standards of operation for narcotic treatment programs. The administrative regulations shall include minimum requirements in the following areas:

- (a) Compliance with relevant local ordinances and zoning requirements;
- (b) Submission of a plan of operation;
- (c) Criminal records checks for employees of the narcotic treatment program;
- (d) Conditions under which clients are permitted to take home doses of medications;
- (e) Drug screening requirements;
- (f) Quality assurance procedures;
- (g) Program director requirements;
- (h) Qualifications for the medical director for a narcotic treatment program, who at a minimum shall:
 - 1. Be a board-eligible psychiatrist licensed to practice in Kentucky and have three (3) years' documented experience in the provision of services to individuals with a substance use disorder; or
 - 2. Be a physician licensed to practice in Kentucky and be board certified as an addiction medicine specialist;
- (i) Security and control of narcotics and medications;
- (j) Program admissions standards;
- (k) Treatment protocols;
- (l) Treatment compliance requirements for program clients;
- (m) Rights of clients; ~~and~~
- (n) Monitoring of narcotic treatment programs by the cabinet; **and**
- (o) Process and procedures for how a narcotic treatment program uses buprenorphine products for the treatment of substance use disorder.**

➔Section 3. Whereas there is a shortage of counselors who are qualified and available to treat individuals during the current substance use disorder crisis and it is of the utmost importance that all qualified counselors be able to provide treatment and that all available

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treatments be used, an emergency is declared to exist and this Act takes effect upon approval by the Governor or upon its otherwise becoming a law."