FILED WITH LRC
TIME: 10 a.m.

JUL 15 2014

Donna Little
REGULATIONS COMPILER

STATEMENT OF EMERGENCY

902 KAR 20:440E

(1) As part of the Cabinet for Health and Family Service's efforts to enhance access to mental health and substance abuse services, the Office of Inspector General is promulgating this emergency administrative regulation to establish minimum requirements for the operation of "Residential Crisis Stabilization Units". This new level of care will allow entities to become licensed to provide residential crisis stabilization in a category that will be eligible for enrollment in the Kentucky Medicaid Program. The anticipated increase in the number of entities licensed to provide residential crisis stabilization in community-based programs to Medicaid recipients and other individuals with substance use disorder, mental health disorder, or a co-occurring disorder will both enhance patient access to services needed to stabilize a crisis and help prevent admission to a higher level of care.

(2) This action must be implemented on an emergency basis in accordance with KRS 13A.190(1)(a) to enhance patient access to residential crisis stabilization services statewide, to prevent a loss of Medicaid federal funds, and to meet a deadline for the promulgation of an administrative regulation necessary under federal law and regulation.

(3) This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

(4) The ordinary administrative regulation is identical to this emergency administrative regulation.

Steven L. Beshear
Governor

Audrey Tayse Haynes
Secretary

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Office of Inspector General

3 Division of Health Care

4 (New Emergency Administrative Regulation)

5 902 KAR 20:440E. Facilities specifications, operation and services; residential

6 crisis stabilization units.

7 RELATES TO: KRS 200.503(2), 210.005, 309.130(2), 311.571, 311.840 – 311.862,

8 314.042, 319.050, 319.056, 319C.010, 335.080, 335.100, 335.300, 335.500, 45 C.F.R.

9 160, 164, 42 U.S.C. 1320d-2 – 1320d-8, 42 U.S.C. 209ee-3, 42 C.F.R. Part 2

10 STATUTORY AUTHORITY: KRS 216B.042

11 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the

12 Cabinet for Health and Family Services to promulgate administrative regulations

13 necessary for the proper administration of the licensure function, which includes

14 establishing licensure standards and procedures to ensure safe, adequate, and efficient

15 health facilities and health services. This administrative regulation establishes minimum

16 licensure requirements for the operation of residential crisis stabilization units which

17 serve at-risk children or children with severe emotional disabilities, at-risk adults or

18 adults with severe mental illness, or individuals with substance use disorder or co-

19 occurring disorders.

20 Section 1. Definitions.

21 (1) "Behavioral health professional" means:

1 (a) A psychiatrist licensed under the laws of Kentucky to practice medicine or
2 osteopathy, or a medical officer of the government of the United States while engaged
3 in the performance of official duties, who is certified or eligible to apply for certification
4 by the American Board of Psychiatry and Neurology, Inc;
5 (b) A physician licensed in Kentucky to practice medicine or osteopathy in
6 accordance with KRS 311.571;
7 (c) A psychologist licensed and practicing in accordance with KRS 319.050;
8 (d) A certified psychologist with autonomous functioning or licensed psychological
9 practitioner practicing in accordance with KRS 319.056;
10 (e) A clinical social worker licensed and practicing in accordance with KRS 335.100;
11 (f) An advanced practice registered nurse licensed and practicing in accordance
12 with KRS 314.042;
13 (g) A physician assistant licensed under KRS 311.840 to 311.862;
14 (h) A marriage and family therapist licensed and practicing in accordance with KRS
15 335.300;
16 (i) A professional clinical counselor licensed and practicing in accordance with KRS
17 335.500; or
18 (j) A licensed professional art therapist as defined by KRS 309.130(2).
19 (2) "Behavioral health professional under clinical supervision" means a:
20 (a) Psychologist certified and practicing in accordance with KRS 319.056;
21 (b) Licensed psychological associate licensed and practicing in accordance with
22 KRS 319.064;
23 (c) Marriage and family therapist associate as defined by KRS 335.300(3);

1 (d) Social worker certified and practicing in accordance with KRS 335.080;

2 (e) Licensed professional counselor associate as defined by KRS 335.500(3); or

3 (f) Licensed professional art therapist associate as defined by KRS 309.130(3).

4 (3) "Certified alcohol and drug counselor" is defined by KRS 309.080(2).

5 (4) "Child with a severe emotional disability" is defined by KRS 200.503(2).

6 (5) "Crisis stabilization unit" means a community-based facility that is not part of an

7 inpatient unit and which provides crisis services to no more than twelve (12) clients who

8 require overnight stays.

9 (6) "Peer support specialist" means a paraprofessional who:

10 (a) Meets the application, training, examination, and supervision requirements of

11 908 KAR 2:220, 908 KARE 2:230, or 908 KAR 2:240; and

12 (b) Works under the supervision of a:

13 1. Physician;

14 2. Psychiatrist;

15 3. Licensed psychologist;

16 4. Licensed psychological practitioner;

17 5. Licensed psychological associate;

18 6. Licensed clinical social worker;

19 7. Licensed marriage and family therapist;

20 8. Licensed professional clinical counselor;

21 9. Certified social worker;

22 10. Licensed marriage and family therapist associate;

23 11. Licensed professional counselor associate;

1 12. Licensed professional art therapist; or

2 13. Licensed professional art therapist associate.

3 (7) "Severe mental illness" means the conditions defined by KRS 210.005(2) and

4 (3).

5 (8) "Substance use disorder" means a cluster of cognitive, behavioral, and

6 physiological symptoms resulting from use of a substance which the individual

7 continues to take despite experiencing substance-related problems as a result,

8 including:

9 (a) Intoxication;

10 (b) Withdrawal; or

11 (c) A substance induced mental health disorder.

12 (9) "Time out" means a treatment intervention that separates a client from others in

13 a nonsecure area for a time-limited period to permit the client time to regain control over

14 his or her behavior.

15 Section 2. Licensure Application and Fees.

16 (1) An applicant for initial licensure as a residential crisis stabilization unit shall

17 submit to the Office of Inspector General:

18 (a) A completed Application for License to Operate a Residential Crisis Stabilization

19 Unit; and

20 (b) An accompanying initial licensure fee in the amount of $750, made payable to

21 the Kentucky State Treasurer.

22 (2) At least sixty (60) calendar days prior to the date of annual renewal, a residential

23 crisis stabilization unit shall submit to the Office of Inspector General:

1 (a) A completed Application for License to Operate a Residential Crisis Stabilization
2 Unit; and
3 (b) An annual renewal fee of $500, made payable to the Kentucky State Treasurer.
4 (3)(a) Name change. A residential crisis stabilization unit shall:
5 1. Notify the Office of Inspector General in writing within ten (10) calendar days of the
6 effective date of a change in the unit's name; and
7 2. Submit a processing fee of twenty-five (25) dollars.
8 (b) Change of location. A residential crisis stabilization unit shall not change the
9 location where the unit is operated until an Application for License to Operate a
10 Residential Crisis Stabilization Unit accompanied by a fee of $100 is filed with the Office
11 of Inspector General.
12 (c) Change of ownership.
13 1. The new owner of a residential crisis stabilization unit shall submit to the Office of
14 Inspector General an Application for License to Operate a Residential Crisis
15 Stabilization Unit accompanied by a fee of $750 within ten (10) calendar days of the
16 effective date of the ownership change.
17 2. A change of ownership for a license shall be deemed to occur if more than
18 twenty-five (25) percent of an existing residential crisis stabilization unit or capital stock
19 or voting rights of a corporation is purchased, leased, or otherwise acquired by one (1)
20 person from another.
21 (4) To obtain approval of initial licensure or renew a license to operate a residential
22 crisis stabilization unit, the licensee shall be in compliance with this administrative
23 regulation and federal, state, and local laws and regulations pertaining to the operation

1 of the unit.

2 Section 3. Location. If an alcohol and other drug abuse treatment program licensed
3 pursuant to 908 KAR 1:370 obtains separate licensure under this administrative
4 regulation to operate a residential crisis stabilization unit, the unit shall be located off the
5 campus of any residential treatment program licensed pursuant to 908 KAR 1:370.

6 Section 4. Accreditation.

7 (1) An entity licensed under this administrative regulation to operate a residential
8 crisis stabilization unit shall become accredited within one (1) year of initial licensure by
9 the:

10 (a) Joint Commission;

11 (b) Commission on Accreditation of Rehabilitation Facilities; or

12 (c) Council on Accreditation.

13 (2) The cabinet shall revoke the license if the residential crisis stabilization unit fails
14 to become accredited in accordance with subsection (1) of this section or fails to
15 maintain accreditation.

16 (3) Proof of accreditation shall be provided to the Office of Inspector General upon
17 receiving accreditation within one (1) year of initial licensure and at the time of annual
18 renewal described in Section 2(2) of this administrative regulation.

19 Section 5. Administration and Operation. The licensee shall be legally responsible
20 for:

21 (1) The residential crisis stabilization unit;

22 (2) The establishment of administrative policy; and

23 (3) Ensuring compliance with federal, state, and local laws and regulations

1 pertaining to the operation of the organization.

2 Section 6. License Procedures. An entity licensed under this administrative

3 regulation to operate a residential crisis stabilization unit shall be subject to the

4 provisions of 902 KAR 20:008, Section 1, 2, 5, 6, and 7.

5 Section 7. Background checks and personnel records.

6 (1)(a) All personnel of a residential crisis stabilization unit shall:

7 1. Have a criminal record check performed upon initial hire and every two (2) years

8 through the Administrative Office of the Courts or the Kentucky State Police; and

9 2. Not have a criminal conviction, or plea of guilty, to a:

10 a. Sex crime as specified in KRS 17.500;

11 b. Violent crime as specified in KRS 439.3401;

12 c. Criminal offense against a minor as specified in KRS 17.500; or

13 d. Class A felony.

14 (2) Prior to initial hire, an out-of-state criminal background information check shall

15 be obtained for any applicant recommended for employment in a residential crisis

16 stabilization unit who has resided or resides outside of the Commonwealth.

17 (3) A residential crisis stabilization unit shall perform annual criminal record checks

18 as described in subsection (2) of this section on a random sample of at least twenty-five

19 (25) percent of all personnel.

20 (4) A personnel record shall be kept on each staff member and shall contain the

21 following items:

22 (a) Name and address;

23 (b) Verification of all training and experience, including licensure, certification,

1 registration, or renewals;

2 (c) Verification of submission to the background check required by subsection (1) of

3 this section;

4 (d) Performance appraisals conducted no less than annually; and

5 (e) Employee incident reports.

6 Section 8. Quality assurance and utilization review.

7 (1) The residential crisis stabilization unit shall have a quality assurance and

8 utilization review program designed to:

9 (a) Enhance treatment and care through the ongoing objective assessment of

10 services provided, including the correction of identified problems; and

11 (b) Provide an effective mechanism for review and evaluation of the service needs

12 of each client.

13 (2) The need for continuing services shall be evaluated immediately upon a change

14 in a client's service needs or a change in the client's condition to ensure that proper

15 arrangements have been made for:

16 (a) Discharge;

17 (b) Transfer; or

18 (c) Referral to another service provider, if appropriate.

19 Section 9. Client Grievance Policy. The residential crisis stabilization unit shall

20 have written policies and procedures governing client grievances which shall include the

21 following:

22 (1) A process for filing a written client grievance;

23 (2) An appeals process with time frames for filing and responding to a grievance in

1 writing;

2 (3) Protection for a client from interference, coercion, discrimination, or reprisal; and

3 (4) Conspicuous posting of the grievance procedures in a public area to inform a

4 client of:

5 (a) His or her right to file a grievance;

6 (b) The process for filing a grievance; and

7 (c) The address and telephone number of the cabinet's ombudsman.

8 Section 10. Services.

9 (1) An entity licensed under this administrative regulation to operate a residential

10 crisis stabilization unit shall provide the following services:

11 (a) Screening;

12 (b) Assessment:

13 (c) Treatment planning;

14 (d) Individual outpatient therapy;

15 (e) Group outpatient therapy; and

16 (f) Psychiatric services.

17 (2) An entity licensed under this administrative regulation to operate a residential

18 crisis stabilization unit may provide:

19 (a) Family therapy; or

20 (b) Peer support by a peer support specialist.

21 (3)(a) The services identified in subsection (1) and (2)(a) of this section shall be

22 delivered by a behavioral health professional or a behavioral health professional under

23 clinical supervision.

1 (b) The service identified in subsection (1)(a) of this subsection may be provided by
2 a certified alcohol and drug counselor.
3 (c) A residential crisis stabilization unit shall have access to a board-certified or
4 board-eligible psychiatrist twenty-four (24) hours per day, seven (7) days per week.
5 (d) The psychiatrist shall be available to evaluate, provide treatment, and participate
6 in treatment planning.
7 (4) If a crisis stabilization program serves adults with a severe mental illness or
8 substance use disorder and children with severe emotional disabilities:
9 (a) The programs shall not be located on the same campus; and
10 (b) The children's program shall serve clients:
11 1. Under the age of eighteen (18); or
12 2. Up to the age of twenty-one (21) if developmentally appropriate for the client.
13 (5) A residential crisis stabilization unit shall:
14 (a) Provide treatment for acute withdrawal, if appropriate;
15 (b) Complete a mental status evaluation and physical health questionnaire of the
16 client upon admission;
17 (c) Have written policies and procedures for:
18 1. Crisis intervention; and
19 2. Discharge planning which shall begin at the time of admission and aftercare
20 planning processes;
21 (d) Make referrals for physical health services to include diagnosis, treatment, and
22 consultation for acute or chronic illnesses occurring during the client's stay in the
23 residential crisis stabilization unit or identified during the admission assessment;

1 (e) Have a description of linkages with behavioral health services organizations
2 licensed under 902 KAR 20:430 or other programs which:
3 1. Address identified needs and achieve goals specified in the treatment plan; and
4 2. Help promote continuity of care after discharge;
5 (f) Have at least one (1) direct-care staff member assigned direct-care responsibility
6 for:
7 1. Every four (4) clients during normal waking hours; and
8 2. Every six (6) clients during normal sleeping hours;
9 (g) Ensure that administrative oversight of the unit is provided by a staff member
10 who shall be a:
11 1. Behavioral health professional; or
12 2. Behavioral health professional under clinical supervision;
13 (h) Provide a training program for direct-care staff pertaining to:
14 1. The care of clients in a crisis stabilization unit;
15 2. Detection and reporting of abuse, neglect, or exploitation;
16 3. Emergency and safety procedures;
17 4. Behavior management, including de-escalation training;
18 5. Physical management procedures and techniques;
19 6. Suicide prevention and care; and
20 7. Trauma informed care; and
21 (i) Assure that each client shall be:
22 1. In need of short-term behavior management and at risk of placement in a higher
23 level of care;

1 2. Able to take care of his or her own personal needs, if an adult;

2 3. Medically able to participate in services; and

3 4. Served in the least restrictive environment available in the community.

4 Section 11. Client records.

5 (1) A client record shall be maintained for each individual receiving services.

6 (2) Each entry shall be current, dated, signed, and indexed according to the service

7 received.

8 (3) Each client record shall contain:

9 (a) An identification sheet, including the client's name, address, date of birth,

10 gender, marital status, expected source of payment, and referral source;

11 (b) Information on the purpose for seeking a service;

12 (c) If applicable, consent via signature of appropriate family members or guardians

13 for admission, evaluation, and treatment;

14 (d) Mental status evaluation and physical health questionnaire of the client taken

15 upon admission;

16 (e) Staff notes for all services provided;

17 (f) Documentation of treatment planning, including diagnosis and all services to be

18 provided; and

19 (g) Documentation of medication prescribing and monitoring used in treatment.

20 (4) Ownership.

21 (a) Client records shall be the property of the organization;

22 (b) The original client record shall not be removed from the organization except by

23 court order or subpoena; and

1 (c) Copies of a client record or portions of the record may be used and disclosed.
2 Use and disclosure shall be as established in this administrative regulation.
3 (5) Retention of records. After a client's death or discharge, the completed client
4 record shall be placed in an inactive file and:
5 (a) Retained for six (6) years; or
6 (b) If a minor, three (3) years after the client reaches the age of majority under state
7 law, whichever is the longest.
8 (6) Confidentiality and Security: Use and Disclosure.
9 (a) The residential crisis stabilization unit shall maintain the confidentiality and
10 security of client records in compliance with the Health Insurance Portability and
11 Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts
12 160 and 164, as amended, including the security requirements mandated by subparts A
13 and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law, including
14 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records,
15 42 C.F.R. Part 2.
16 (b) The residential crisis stabilization unit may use and disclose client records. Use
17 and disclosure shall be as established or required by:
18 1. HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164; or
19 2. 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient
20 Records, 42 C.F.R. Part 2.
21 (c) This administrative regulation shall not be construed to forbid the residential
22 crisis stabilization unit from establishing higher levels of confidentiality and security than
23 required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or

1 42 U.S.C. 290ee-3, and the Confidentiality of Alcohol and Drug Abuse Patient Records,
2 42 C.F.R. Part 2.
3 Section 12. Client Rights.
4 (1) A residential crisis stabilization unit shall have written policies and procedures to
5 ensure that the rights of a client are protected, including a statement of rights and
6 responsibilities which shall be:
7 (a) Provided at the time of admission:
8 1. To the client; or
9 2. If the client is a minor or incapacitated, to the client, client's parent, guardian, or
10 other legal representative;
11 (b) Read to the client or client's parent, guardian, or other legal representative if
12 requested or if either cannot read;
13 (c) Written in language that is understandable to the client;
14 (d) Conspicuously posted in a public area of the facility; and
15 (e) Cover the following:
16 1. The right to treatment, regardless of race, religion, or ethnicity;
17 2. The right to recognition and respect of personal dignity in the provision of all
18 treatment and care;
19 3. The right to be provided treatment and care in the least restrictive environment
20 possible;
21 4. The right to an individualized plan of care;
22 5. The right of the client, including the client's parents or guardian if the client is a
23 minor, to participate in treatment planning;

1 6. The nature of care, procedures, and treatment provided;

2 7. The right to an explanation of risks, side effects, and benefits of all medications

3 and treatment procedures used;

4 8. The right to be free from verbal, sexual, physical or mental abuse; and

5 9. The right, to the extent permitted by law, to refuse the specific medications or

6 treatment procedures and the responsibility of the facility if the client refuses treatment,

7 to seek appropriate legal alternatives or orders of involuntary treatment, or in

8 accordance with professional standards, to terminate the relationship with the client

9 upon reasonable notice.

10 (2) A residential crisis stabilization unit's written policies and procedures concerning

11 client rights shall assure and protect the client's personal privacy within the constraints of

12 his or her plan of care, including:

13 (a) Visitation by family or significant others in a suitable area of the facility; and

14 (b) Telephone communications with family or significant others at a reasonable

15 frequency;

16 (3)(a) If a privacy right is limited, a full explanation shall be given to the client or the

17 client's parent or guardian if the client is a minor.

18 (b) Documentation shall be included in the client's record of any privacy limitation.

19 (4) Information shall be provided to the client, or the client's parent or guardian if the

20 client is a minor, regarding the use and disposition of special observation and audio

21 visual techniques, which may include the following:

22 (a) One (1) way vision mirror;

23 (b) Audio recording;

1 (c) Video tape recording;

2 (d) Television;

3 (e) Movie; or

4 (f) Photographs.

5 (5)(a) If the residential crisis stabilization unit serves children as described in
6 Section 10(4)(b) of this administrative regulation, written policy and procedures shall be
7 developed in consultation with professional and direct-care staff to provide for behavior
8 management of residents, including the use of a time-out room.

9 (b) Behavior management techniques shall be explained fully to each client and the
10 client's parent, guardian, or other legal representative.

11 (c) The unit shall prohibit cruel and unusual disciplinary measures including the
12 following:

13 1. Corporal punishment;

14 2. Forced physical exercise;

15 3. Forced fixed body positions;

16 4. Group punishment for individual actions;

17 5. Verbal abuse, ridicule, or humiliation;

18 6. Denial of three (3) balanced nutritional meals per day;

19 7. Denial of clothing, shelter, bedding, or personal hygiene needs;

20 8. Denial of access to educational services;

21 9. Denial of visitation, mail, or phone privileges for punishment;

22 10. Exclusion of the resident from entry to his or her assigned living unit; and

23 11. Restraint or seclusion as a punishment or employed for the convenience of staff.

1 (e) Written policy shall prohibit residents from administering disciplinary measures
2 upon one another and shall prohibit persons other than professional or direct-care staff
3 from administering disciplinary measures to residents.
4 (6) If therapeutic holds are used as a safe behavioral management technique, the
5 residential crisis stabilization unit shall have a policy which shall describe:
6 (a) Criteria for appropriate use of therapeutic holds;
7 (b) Documentation requirements; and
8 (c) The requirement for completion of a training course approved by the Department
9 for Behavioral Health, Developmental and Intellectual Disabilities prior to using
10 therapeutic holds.
11 Section 13. Reports of abuse, neglect, or exploitation.
12 (1) A residential crisis stabilization unit shall have written policies which assure:
13 (a) The reporting of cases of abuse, neglect or exploitation of adults and children to
14 the cabinet pursuant to KRS Chapters 209 and 620; and
15 (b) That a resident may file a complaint with the cabinet concerning resident abuse,
16 neglect, or exploitation
17 (2) The unit shall have evidence that all allegations of abuse, neglect, or exploitation
18 are thoroughly investigated internally, and shall prevent further potential abuse while the
19 investigation is in progress.
20 Section 14. Medication prescribing and monitoring in a residential crisis
21 stabilization unit.
22 (1) Medication prescribing and monitoring shall be under the direction of a licensed
23 psychiatrist, a licensed physician supervised by a psychiatrist, or an APRN certified in

1 psychiatric-mental health nursing practice who meets the requirements established in
2 201 KAR 20:057.
3 (2) Prescriptions concerning medication shall not exceed an order for more than five
4 refills.
5 (3) Medication prescribing and monitoring used in treatment shall be recorded in the
6 staff notes and on a special medications chart in the client record.
7 (4) A copy of the prescription shall be kept in the client record.
8 (5) Blood or other laboratory test or examination shall be performed in accordance
9 with accepted medical practice on each client receiving medication prescribed or
10 administered by the residential crisis stabilization unit staff.
11 (6) Drug supplies shall be stored under proper sanitary, temperature, light and
12 moisture conditions.
13 (7) Medication kept by the unit shall be properly labeled.
14 (8) A medication shall be stored in the originally received container unless
15 transferred to another container by a pharmacist or another person licensed to transfer
16 the medication.
17 (9) Medication kept in the unit shall be kept in a locked cabinet.
18 (10) A controlled substance shall be kept under double lock (e.g., in a locked box in
19 a locked cabinet).
20 (11) There shall be a controlled substances record, in which is recorded:
21 (a) The name of the client;
22 (b) The date, time, dosage, balance remaining and method of administration of each
23 controlled substance;

1 (c) The name of the prescribing physician or other ordering practitioner acting within
2 the scope of his or her license to practice; and
3 (d) The name of the nurse who administered it, or staff who supervised the self-
4 administration.
5 (12) Access to the locked cabinet shall be restricted to a designated medication
6 nurse or other authorized personnel.
7 (13) Medication to be self-administered shall be made available to the client at the
8 time of administration.
9 Section 15. Facility Requirements.
10 (1) Living Unit. A living unit shall be located within a single building in which there is
11 at least 120 square feet of space for each resident in the facility.
12 (2) Bedrooms.
13 (a) More than four (4) clients shall not sleep in a bedroom.
14 (b) A bedroom shall be equipped with a bed for each client.
15 (c) A bed shall:
16 1. Be at least thirty-six (36) inches wide and at least five (5) feet in length;
17 2.. Be long and wide enough to accommodate the client's size;
18 3. Have a mattress cover, two (2) sheets, a pillow, and bed covering to keep the
19 client comfortable;
20 4. Be equipped with a support mechanism and a clean mattress; and
21 5. Be placed so that a client shall not experience discomfort because of proximity to
22 a radiator or heat outlet, or exposure to a draft.
23 (d) There shall be separate sleeping quarters for males and females.

1 (e) A client shall not be housed in a room, a detached building, or other enclosure
2 that has not previously been inspected and approved for residential use by the Office of
3 Inspector General and the Department of Housing, Buildings and Construction.
4 (3) Bathrooms.
5 (a) For every eight (8) residents, each residential crisis stabilization unit shall have
6 at least one (1):
7 1. Wash basin with hot and cold water;
8 2. Bath or shower with hot and cold water; and
9 3. Flush toilet.
10 (b) If separate toilet and bathing facilities are not provided, males and females shall
11 not be permitted to use those facilities at the same time.
12 (4) Living area.
13 (a) The living area shall provide comfortable seating for all clients housed within the
14 residential crisis stabilization unit.
15 (b) Each living unit shall be equipped with a:
16 1. Working sink; and
17 2. Stove and refrigerator, unless a kitchen is directly available within the same
18 building as the living unit.
19 (5) There shall be adequate lighting, heating, heated water, and ventilation.
20 (6) There shall be space for a client to store personal belongings, including a
21 receptacle where personal property may be stored and locked.
22 (7) The residential crisis stabilization unit shall be kept in good repair, neat, clean,
23 free from accumulations of dirt and rubbish, and free from foul, stale, and musty odors.

1 (8) The residential crisis stabilization unit shall be kept free from insects and rodents
2 with their harborages eliminated.
3 (9) The residential crisis stabilization unit shall establish an infection control system
4 which includes training personnel on proper hygiene related to infections prevalent
5 among alcohol and other drug abusers.
6 (10) Services shall be provided in an area where clients are ensured privacy and
7 confidentiality.
8 Section 16. Facility Specifications.
9 (1) A residential crisis stabilization unit shall be:
10 (a) Of safe and substantial construction;
11 (b) In compliance with applicable state and local laws relating to zoning,
12 construction, plumbing, safety, and sanitation;
13 (c) Approved by the State Fire Marshal's office prior to initial licensure or if the unit
14 changes location; and
15 (d) Meet requirements for making buildings and facilities accessible to and usable
16 by individuals with physical disabilities pursuant to KRS 198B.260 and administrative
17 regulations promulgated thereunder.
18 (2) A residential crisis stabilization unit shall:
19 (a) Have a written emergency plan and procedures for meeting potential disasters
20 such as fires or severe weather;
21 (b) Post the emergency plan conspicuously in a public area of the unit and provide a
22 copy to all personnel;
23 (c) Provide training for all personnel on how to report a fire, extinguish a small fire,

1 and evacuate a building; and

2 (d) Practice fire drills monthly, with a written record kept of all practiced fire drills,

3 detailing the date, time, and residents who participated.

4 Section 17. Incorporation by Reference.

5 (1) The OIG 20:440, "Application for License to Operate a Residential Crisis

6 Stabilization Unit", July 2014 edition, is incorporated by reference.

7 (2) This material may be inspected, copied, or obtained, subject to applicable

8 copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort,

9 Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

Maryellen B. Mynear 6/24/14

Maryellen B. Mynear
Inspector General

Date

APPROVED:

Audrey Tayse Haynes 6/26/14

Audrey Tayse Haynes
Secretary

Date

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 902 KAR 20:440E
Contact Person: Maryellen B. Mynear, Inspector General
Stephanie Brammer-Barnes, Internal Policy Analyst
Office of Inspector General
502-564-2888

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation creates a new licensure category for "residential crisis stabilization units".

(b) The necessity of this administrative regulation: This new administrative regulation is necessary to establish the minimum requirements for the licensure of residential crisis stabilization units which are community-based programs that offer an array of services to stabilize a crisis and divert individuals from placement in a higher level of care.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.042 which requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function. Administration of the licensure function includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. In addition, KRS 215B.042 authorizes the Cabinet to establish reasonable application fees for licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the minimum licensure requirements necessary for the operation of residential crisis stabilization units.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Under this new administrative regulation, entities may apply for licensure as a residential crisis stabilization unit.

(4) Provide an analysis of how the entities identified in question (3) will be impacted

by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities interested in applying for licensure as a residential crisis stabilization unit will be required to comply with the licensure standards established in this new administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Entities licensed under this new administrative regulation will be subject to the licensure fees described in the response to question (7).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities licensed under this new administrative regulation will be eligible to enroll in the Kentucky Medicaid Program. Additionally, residential crisis stabilization units help ensure that Medicaid recipients will have access to treatment needed to stabilize a child with a severe emotional disability, adult with severe mental illness, or individual with substance use disorder.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The cost of implementing this administrative regulation is expected to be absorbable because the licensure fee is anticipated to cover the cost of regulating residential crisis stabilization units, including initial and routine surveys conducted by at least one (1) OIG inspector, investigation of complaints, processing applications, supervisory review, travel costs, and other indirect costs.

(b) On a continuing basis: The cost of implementing this administrative regulation is expected to be absorbable as the licensure fee is anticipated to cover the cost of regulating residential crisis stabilization units on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding used for the implementation and enforcement of this administrative regulation will be from licensure fees collected from residential crisis stabilization units and state general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: As a new administrative regulation, the initial fee for licensure as a residential crisis stabilization unit will be $750 and the annual renewal fee will be $500. A processing fee of $25 will be charged for a change of name and a fee of $100 will be charged for a change of location. A change of ownership must be documented on a new licensure application and submission of an accompanying fee of $750.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This new administrative regulation establishes

licensure fees as described in the response to question (7).

(9) TIERING: Is tiering applied? (explain why or why not) Tiering is not applicable as compliance with this administrative regulation applies equally to all individuals or entities who elect to be regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 902 KAR 20:440E
Contact Person: Maryellen B. Mynear, Inspector General
Stephanie Brammer-Barnes, Internal Policy Analyst
Office of Inspector General
502-564-2888

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Under this new administrative regulation, entities may apply for licensure as a residential crisis stabilization unit.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The Cabinet will collect an initial fee of $750 from each applicant for licensure as a residential crisis stabilization unit.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The Cabinet will collect an annual renewal fee of $500 from each licensed residential crisis stabilization unit.

(c) How much will it cost to administer this program for the first year? The cost of implementing this administrative regulation is expected to be absorbable because the licensure fee is anticipated to cover the cost of regulating residential crisis stabilization units, including initial and routine surveys conducted by at least one (1) inspector, investigation of complaints, processing applications, supervisory review, travel costs, and other indirect costs.

(d) How much will it cost to administer this program for subsequent years? The cost of implementing this administrative regulation is expected to be absorbable as the licensure fee is anticipated to cover the cost of regulating residential crisis stabilization units on a continuing basis.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to

explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation