

**Cabinet for Health and Family Services
Office of Inspector General
Division of Health Care**

**Behavioral Health Services Organizations
and
Residential Crisis Stabilization Units**

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Emergency Regulations

On July 15, 2014, the Office of Inspector General filed the following emergency regulations:

- 902 KAR 20:430E. Facilities specifications, operation and services; behavioral health services organizations.
- 902 KAR 20:440E. Facilities specifications, operation and services; residential crisis stabilization units.

Enhanced Access to Community-Based Services

Under these new emergency regulations, the anticipated increase in the number of entities licensed to provide behavioral health services in community-based programs to Medicaid recipients and other individuals with substance use disorder, mental health disorder, or a co-occurring disorder will enhance patient access to needed services and help prevent unnecessary admissions to facility-based care.

Public Hearing and Public Comment Period

- Interested individuals may comment on the new regulations by submitting:
 - A written request for a public hearing by 8/14/14, or
 - Written comments by 9/2/14.
- Requests for a public hearing or submission of written comments must be addressed to:

Attn: Tricia Orme
Office of Legal Services
275 East Main Street 5 W-B
Frankfort, KY 40621

(502) 564-7905

Fax: (502) 564-7573

email address: tricia.orme@ky.gov

Statement of Consideration

- If public comments are received, the OIG will file a response called a “Statement of Consideration” with the Legislative Research Commission within 45 days of the end of the public comment period.
- All individuals who provide comments will receive a copy of the Statement of Consideration.
- The Cabinet anticipates final adoption of the new regulations in mid-December 2014.

Licensure Process

Certificate of Need (CON)

- BHSOs are exempt from CON.
- Residential Crisis Stabilization Units are subject to CON's nonsubstantive review process.
 - CON approval under the nonsubstantive review process must be obtained prior to application for licensure as a Residential Crisis Stabilization Unit.
 - For information regarding CON, contact the Office of Health Policy at (502) 564 – 9592.

Application for Initial Licensure

To apply for initial licensure as a BHSO or Residential Crisis Stabilization Unit, applicants must submit the following to the OIG:

- Appropriate application for licensure, which may be downloaded from the OIG's website
- \$750 made payable to the Kentucky State Treasurer, and
- Proof of city or county Fire Marshal approval for the location where services will be provided. (*Fire Marshal's approval is considered current if received within 12 month period prior to the date the OIG receives the licensure application.*)

Submitting the Application

The licensure application, fee, and proof of Fire Marshal's approval must be submitted to:

Attn: Robin Rowe
Division of Health Care
Office of Inspector General
275 East Main Street, 5E-A
Frankfort, Kentucky 40621

NOTE: An incomplete application or failure to submit the fee or Fire Marshal's approval will result in return of the application, which may be re-submitted by the applicant upon completion of all required information.

Unannounced Visits and Effective Date of License

- Upon receipt of the application, fee, and Fire Marshal's approval, the OIG will place the facility on the survey schedule for inspection.
- The initial survey and all subsequent licensure surveys will be unannounced.
- If there are no deficiencies found during the initial survey, licensure is effective on the date of the last day of the survey.
- If deficiencies are found during the initial survey:
 - The applicant must submit an acceptable plan of correction, and
 - Licensure is effective as of the last “alleged compliance date” identified on the applicant's plan of correction.

Accreditation

- BHSOs and Residential Crisis Stabilization Units must become accredited within one year of licensure by the:
 - Joint Commission;
 - Commission on Accreditation of Rehabilitation Facilities; or
 - Council on Accreditation.
- BHSOs and Residential Crisis Stabilization Units that fail to become accredited within one year of the effective date of the initial license or fail to maintain accreditation will be subject to revocation of the license.



Behavioral Health Services Organizations (BHSO)



Who should apply for licensure as a BHSO?

- Any clinical behavioral health services entity not licensed by the OIG's Division of Health Care or an entity licensed in a category not eligible for enrolling in Medicaid, such as an Alcohol and Other Drug Entity (AODE), may obtain licensure as a BHSO pursuant to 902 KAR 20:430E.
- BHSOs are eligible to enroll in the Kentucky Medicaid Program for reimbursement of covered behavioral health services provided to Medicaid recipients.

BHSO Services

Licensed BHSOs must provide one or more of the following behavioral health outpatient services as described in the Medicaid State Plan and 902 KAR 20:430E:

- Screening
- Assessment
- Psychological testing
- Crisis intervention
- Mobile crisis
- Day treatment
- Peer support
- Intensive outpatient services

BHSO Services, continued

- Individual, group, family, or collateral outpatient therapy
- Service planning for mental health disorders
- Screening, brief intervention and referral to treatment for substance abuse
- Assertive community treatment for mental health disorders
- Targeted case management
- Comprehensive community support services, or
- Therapeutic rehabilitation for adults with a serious mental illness or children with severe emotional disabilities

Dual Licensure and Residential Services

- If a BHSO provides outpatient behavioral health services to treat individuals with substance use disorder or a co-occurring disorder in which substance use disorder is the primary diagnosis, the BHSO will be required to be dually licensed as an AODE.
- In addition to providing outpatient behavioral health services, BHSOs may provide residential services for substance use disorder, in which case the BHSO must also be dually licensed as an AODE.

Staffing – Licensed BHSOs must have:

- Executive Director: Responsible for the administrative management of the organization and may serve as the Program Director
- Program Director: Must be one of the following:
 - Psychiatrist
 - Physician
 - Certified or licensed psychologist
 - Licensed psychological practitioner
 - Advanced practice registered nurse
 - Licensed professional clinical counselor
 - Licensed marriage and family therapist
 - Licensed professional art therapist
 - Licensed board certified behavior analyst, or
 - Licensed clinical social worker

Staffing, continued

BHSO's must have a sufficient number of personnel, which may include:

- Behavioral health professionals
- Behavioral health professionals under clinical supervision
- Licensed behavior analysts and licensed assistant behavior analysts
- Case managers
- Peer support specialists
- Certified alcohol and drug counselors, or
- Community support associates

General Requirements

In addition to service and staffing requirements, 902 KAR 20:430E establishes standards related to:

- Plan of care
- Client records
- Confidentiality
- Client rights
- Grievance process
- Employee background checks
- Staff training
- Quality assurance
- Safe and accessible physical environment

Residential Crisis Stabilization Units (RCSU)

Exemption

Because Community Mental Health Centers (CMHC) and Psychiatric Residential Treatment Facilities (PRTF) may provide crisis stabilization under their existing licenses, CMHCs and PRTFs will not be required to obtain separate licensure under 902 KAR 20:440E as a Residential Crisis Stabilization Unit to provide the service.

RCSU Services

RCSUs licensed under 902 KAR 20:440E must provide the following services:

- Screening
- Assessment
- Treatment planning
- Individual outpatient therapy
- Group outpatient therapy, and
- Psychiatric services

NOTE: RCSUs may provide family therapy or peer support.

RCSU Staffing

- Administrative oversight of the unit must be provided by a behavioral health professional or behavioral health professional under clinical supervision.
- RCSUs must have access to a board-certified or board-eligible psychiatrist 24 hours per day, 7 days per week.
- At least one direct-care staff member must be present for every 4 clients during waking hours and every 6 clients during sleeping hours.

Location

- AODEs that obtain separate licensure to operate a RCSU must ensure that the RCSU is located off the campus of the AODE.
- RCSUs that serve both adults and children must not be located on the same campus.

General Requirements

In addition to services and staffing requirements, 902 KAR 20:440E establishes standards related to:

- Employee background checks
- Quality assurance
- Grievance process
- Staff training
- Client records
- Confidentiality
- Client rights
- Mandatory reporting of suspected abuse, neglect, or exploitation of adult or child residents
- Medication prescribing and monitoring
- Safe and accessible physical environment

Survey Process

Survey Time Frames

- Unannounced
- During normal business hours of the facility

Types of Surveys

- Initial
- Relicensure
- Complaint
- Revisit

Survey Tasks

- Task 1 – Offsite Preparation
- Task 2 – Entrance Conference
- Task 3 – Information Gathering
- Task 4 – Information Analysis/Deficiency Determination
- Task 5 – Exit Conference

Statement of Deficiencies (SOD)

- Document written following every survey
- Serves as evidence of compliance and noncompliance with state requirements
- Records results of survey/investigation
- OIG must submit to the facility within 10 working days

Plan of Correction (POC)

- Required by 902 KAR 20:008 Section 2(3)(d)
- The facility must submit a written plan for correction of violations within 10 calendar days

OLG Regional Enforcement Branches

Western Enforcement Branch

Western State Hospital
P.O. Box 2200
2400 Russellville Road
Hopkinsville, KY 42241
Phone: (270) 889-6052
Fax: (270) 889-6089

Southern Enforcement Branch

116 Commerce Ave.
London, KY 40744
Phone: (606) 330-2030
Fax: (606) 330-2054

Northern Enforcement Branch

L & N Building, 10-W
908 W. Broadway
Louisville, KY 40203
Phone: (502) 595-4958
Fax: (502) 595-4540

Eastern Enforcement Branch

3470 Blazer Parkway, Suite 300
Lexington, KY 40509
Phone: (859) 246-2301
Fax: (859) 246-2307

OIG Contacts

- **OIG, DHC, Regional Enforcement Branches**
 - Surveys, Statement of Deficiencies (SOD) and Plans of Correction (POC)

- **OIG DHC Central Office**
 - Change of Ownership (CHOW)
 - Change of Location
 - Change of Name

OIG Website

<http://chfs.ky.gov/os/oig/>

Office of Inspector General

Maryellen B. Mynear, Inspector General
Connie Payne, Deputy Inspector General

For questions regarding the licensure application process, contact:

Robin Rowe, Analyst, Division of Health Care
Robin.rowe@ky.gov
(502) 564 – 7963, extension 3302

For general questions, contact:

Melanie Poynter, Assistant Director, Division of Health Care
Melanie.poynter@ky.gov
(502) 564 – 7963, extension 3311

Stephanie Brammer-Barnes, Regulation Coordinator
Stephanie.brammer@ky.gov
(502) 564 – 2888, extension 3281