



1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Behavioral Health, Developmental and Intellectual Disabilities

3 Division of Substance Use Disorder

4 (New Administrative Regulation)

5 908 KAR 1:410. Recovery housing.

6 RELATES TO: 26 U.S.C. sec. 501(c), 42 U.S.C. sec. 3607, 12187

7 STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 210.450, 222.211, KRS

8 222.500-510

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the

10 Cabinet for Health and Family Services to promulgate administrative regulations

11 necessary to protect the health of Kentucky citizens and to implement programs

12 mandated by federal law or to qualify for the receipt of federal funds. KRS 222.504(3)

13 allows for the promulgation of administrative regulations governing recovery housing

14 certification. This administrative regulation establishes the standards and requirements

15 for recovery housing certification.

16 Section 1. Definitions. (1) "Applicant" means the owner, operator, or agency that

17 submits an application for the certification of a recovery residence.

18 (2) "Cabinet" is defined by KRS 222.500(1).

19 (3) "Certified recovery residence" means a recovery residence that has met the

1 required standards recognized and approved by the Cabinet for Health and Family
2 Services.

3 (4) "Certifying organization" is defined by KRS 222.500(2).

4 (5) "Department" means the Department for Behavioral Health, Developmental and
5 Intellectual Disabilities.

6 (6) "Kentucky Recovery Housing Network" means the organization recognized by the
7 National Alliance for Recovery Residences (NARR) as the state affiliate.

8 (7) "Local government" is defined by KRS 222.500 (3).

9 (8) "National Alliance for Recovery Residence Standards" or "NARR standards"
10 means a set of published national standards for all levels of recovery residences and
11 is available on the NARR Web site at [https://narronline.org/affiliate-
12 services/standards-and-certification-program/](https://narronline.org/affiliate-services/standards-and-certification-program/).

13 (9) "Recovery residence" is defined by KRS 222.500(5).

14 (10) "Recovery support services" is defined by KRS 222.500(6).

15 Section 2. Application Process for Certification of Recovery Residences.

16 (1) Entities required by KRS 222.502 to obtain certification as a recovery residence
17 shall submit:

18 (a) A "Recovery Housing Certification Application" that includes full, complete, and
19 accurate information for each residence;

20 (b) A completed "Recovery Housing Assurances" for each residence;

21 (c) A signed "Recovery Housing Code of Ethics";

22 (d) A signed, notarized statement granting permission by the property owner of
23 record, if other than the applicant, to operate a recovery residence on the owner's

- 1 property;
- 2 (e) Proof of fire, liability, and hazard insurance coverage on the building in which the
- 3 residence is located;
- 4 (f) Proof of current inspections for:
- 5 1. Health and safety;
- 6 2. Building and occupancy;
- 7 3. Fire codes; and
- 8 4. Zoning requirements;
- 9 (g) Proof of current registration with the Kentucky Secretary of State;
- 10 (h) A copy of resident program policies that include:
- 11 1. Terms of occupancy;
- 12 2. Financial obligations, including any fees, charges, or rents that may accrue to the
- 13 resident and the process, time frame, and requirements for the collection of such
- 14 obligations;
- 15 3. Financial deposits that may be collected, if any, and the time frame process, and
- 16 requirements for the return of such deposits; and
- 17 4. Any circumstances under which the resident may be entitled to a refund of any
- 18 amount for financial obligations collected by the recovery residence, if applicable;
- 19 (i) A copy of the emergency preparedness plan for the recovery house, that includes:
- 20 1. Emergency contact numbers;
- 21 2. An evacuation plan and map;
- 22 3. An emergency relocation plan that specifies where residents may live temporarily;
- 23 and

1 4. A continuity of operations plan; and

2 (j) If applicable, any forms, documents, and guides used to mentor each resident or
3 monitor each resident's participation in the development of the resident's recovery plan;

4 (2) If an application is incomplete or inaccurate, the certifying organization:

5 (a) Shall return the application within ten (10) business days to the applicant with
6 written instructions regarding proper completion and resubmission of the application
7 within a specified time frame; and

8 (b) May conduct, or delegate a designee to conduct, a pre-inspection site visit.

9 (3) The cabinet, certifying organization, or its designee may conduct an inspection of
10 the residence at any time without prior notice, including inspecting and copying financial
11 and resident records.

12 (4) Required entities as established by KRS 222.502 shall submit a "Kentucky
13 Recovery Housing Application" with the required supporting documentation identified in
14 Section 2(1) to the Department for Behavioral Health, Developmental, and Intellectual
15 Disabilities, attention: Kentucky Recovery Housing Certification Program via electronic
16 mail to kyrecoveryhousing@ky.gov.

17 Section 3. Approval or Denial of the Application for Recovery Residence Certification.

18 (1) The certifying organization shall conduct a site visit after the completed application
19 and required documentation is received to determine if the application for certification
20 for a recovery residence is:

21 (a) Approved;

22 (b) Provisionally approved; or

23 (c) Denied.

1 (2) The certifying organization shall grant approval for certification for a period of
2 twelve (12) months if the applicant is in compliance with the "NARR standards"; or

3 (3) The certifying organization may grant provisional approval of the application for
4 initial certification of a recovery residence in the following circumstances:

5 (a) The certifying organization has identified deficiencies with respect to specific
6 NARR standards; and

7 (b) The identified deficiencies do not pose an imminent risk to the health, safety, or
8 welfare of a resident; or

9 (4) The certifying organization shall deny the application for certification of a recovery
10 residence in the following circumstances:

11 (a) The applicant is in noncompliance with the NARR standards;

12 (b) One or more deficiencies have been identified that pose an imminent risk to the
13 health, safety, or welfare of the residents; or

14 (c) Information contained on the application reveals that there would be an
15 unreasonable risk of harm to the residents if certification were granted; or

16 (5) The certifying organization may deny the application for certification of a recovery
17 residence if the applicant has previously discontinued operations of a recovery
18 residence without prior notification to staff, residents, and the certifying organization,
19 and without implementation of a transition plan for residents to alternative living
20 arrangements.

21 (6) If provisional approval is granted, it shall:

22 (a) Be for a period of six (6) months from the date of the issuance of the provisional
23 approval;

1 (b) Require the entity to request the certifying organization to conduct a site visit for
2 reconsideration of certification prior to the expiration of the provisional approval; and

3 (c) Require the entity to submit documentation that demonstrates that the identified
4 deficiencies have been eliminated.

5 (7) (a) Provisional approval may be granted two consecutive times, for a maximum of
6 twelve (12) months, at that time the application for certification shall be denied; and

7 (b) The entity shall wait twelve (12) months from the date of denial before a new
8 application may be submitted.

9 (8) Certification, if granted, shall be valid for the residence and address for which the
10 original certification is issued.

11 (9) Recovery residence certification is not transferable, if the sale or transfer of a
12 recovery residence causes a change in ownership, the new owner must apply for
13 certification as established in section 2.

14 Section 4. Recertification. (1) An entity that has been granted certification as a
15 recovery residence, shall submit an application for recertification to the certifying
16 organization at least sixty (60) days prior to the expiration date of the current
17 certification.

18 (2) The certifying organization shall conduct a site visit as part of the recertification
19 process.

20 (3) (a) Recertification shall be granted if the applicant is currently certified and is in
21 compliance with the NARR standards; or

1 (b) Subsequent to the issuance of provisional recovery residence certification, the
2 identified deficiencies on the basis of which the provisional certification was granted
3 have been fully and satisfactorily remediated;

4 (4) Provisional approval shall be granted of the application for recertification of a
5 recovery residence if:

6 (a) The certifying organization has identified deficiencies with respect to specific
7 NARR standards; and

8 (b) The identified deficiencies do not pose an imminent risk to the health, safety, or
9 welfare of a resident; or

10 (5) If provisional approval is granted during recertification, it shall be granted once
11 and for a period not to exceed six (6) months.

12 (6) An application for recertification shall be denied in the following circumstances:

13 (a) The applicant is in noncompliance with the NARR standards;

14 (b) One or more deficiencies have been identified that pose an imminent risk to the
15 health, safety, or welfare of the residents; or

16 (c) The application reveals that there would be an unreasonable risk of harm to the
17 residents if certification were granted.

18 (7) If the applicant has discontinued operations of a recovery residence without
19 complying with the provisions of this administrative regulation an application for
20 recertification may be denied.

21 (8) If the certifying organization does not conduct a site visit before the expiration of
22 certification, the certifying organization shall issue a written notification to the owner or

1 operator of the recovery residence that extends certification until the certifying
2 organization is able to conduct a site visit of the recovery residence.

3 (9) The certifying organization shall notify the department of the organizations
4 determination of an application for certification within ten (10) business days from the
5 date of notification to the applicant.

6 Section 5. Department Responsibilities. (1) The department shall:

7 (a) Require certified recovery residences to provide proof of certification at least
8 annually;

9 (b) Require certified recovery residences to notify the department of any change in
10 their certification status by a certifying organization;

11 (c) Require separate proof of certification for each recovery residence owned or
12 operated by an individual or entity in the commonwealth;

13 (d) Post on its Web site the name, telephone number, and location by local
14 jurisdiction of each certified recovery residence and shall update the list at least
15 quarterly;

16 (e) Post on its Web site the name of each certifying organization approved by the
17 cabinet; and

18 (f) Notify local governments with appropriate jurisdiction of receipt of proof of
19 certification from a recovery residence within thirty (30) days of receipt of proof of
20 certification.

21 (2) The department may seek legal action, up to and including cessation of
22 operations and monetary penalties, against a recovery residence that fails to meet the
23 requirements of this administrative regulation.

1 (3) The department shall not disclose the address of a recovery residence except to
2 local governments, local law enforcement, and emergency personnel.

3 Section 6. Recovery Residence Owner or Operator Responsibilities.

4 (1) The owner or operator of a certified recovery residence shall ensure the following:

5 (a) The residence and its operations are in compliance with the NARR standards;

6 (b) The residence shall develop and adhere to a written policy regarding the criminal
7 history, including substantiated abuse or neglect of a child or vulnerable adult, of any
8 staff member, employee, peer, or volunteer who serves in a staff capacity with the
9 recovery residence and, in that capacity, has direct and regular interaction with
10 residents;

11 (c) If the certified recovery residence plans to discontinue operations, the owner or
12 operator shall submit, at least sixty (60) calendar days before the residence intends to
13 cease operations, to the certifying organization, a written plan that includes the following
14 information:

15 1. Date operations will cease; and

16 2. Notification to residents of the planned discontinuation of operations and of other
17 certified recovery residences and housing options.

18 Section 7. Incorporation by reference. (1) The following material is incorporated by
19 reference:

20 (a) "Kentucky Recovery Housing Assurances", 07/24;.

21 (b) "Kentucky Recovery Housing Certification Application", 07/24;

22 (c) "Kentucky Recovery Housing Code of Ethics", 07/24;

23 (c) "NARR Standard 3.0", 2018.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
2 law, at the Department for Community Based Services, 275 East Main Street, Frankfort,
3 Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be
4 viewed on the departments Web site at
5 <https://www.chfs.ky.gov/agencies/dbhdid/Pages/default.aspx>.

6 (3) This material is also available at
7 <https://narronline.org/affiliate-services/standards-and-certification-program/>.

908 KAR 1:410

REVIEWED:

DocuSigned by:
Katherine R. Marks, PhD 11/6/2023
Katherine R. Marks, Ph. D., Commissioner Date
Department for Behavioral Health, Developmental and Intellectual Disabilities

APPROVED:

DocuSigned by:
Eric Friedlander 11/6/2023
Eric C. Friedlander, Secretary Date
Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on January 22, 2024, 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 12, 2024, 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 until January 31, 2024. 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.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 908 KAR 1:410
Agency Contact: Rachael Ratliff
Phone Number: (502)782-7212
Email: Rachael.ratliff@ky.gov

Cabinet Contact: Krista Quarles
Phone Number: (502) 564-7476
Email: CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the requirements and standards for the administration of recovery housing certification.

(b) The necessity of this administrative regulation:

This administrative regulation establishes the requirements and standards for the administration of recovery housing certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes through fulfilling the requirements in KRS 222.502 establishing the requirements and standards for the administration of recovery housing certification.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the authorizing statutes through fulfilling the requirements in KRS 222.502 by establishing the standards and requirements for the certification of recovery housing.

(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: As of October 18, 2023, there are currently 71 certified recovery residences with a total of 1,070 available beds for residents. There are 82 pending applications for recovery housing certification with another potential 906 beds available to residents. All of the applications for recovery housing certification have been submitted by 44 unique applicants.

(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: The regulated entities will be required to meet the criteria established in the statute and submit the required application and supporting documentation required to meet the standards established to be certified as a recovery residence.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs associated with the application for certification.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulated entities will experience certification and an increased opportunity for funding for programming designed for individuals who experience substance use disorder and are in recovery.

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

(a) Initially: The Department for Behavioral Health, Developmental, and Intellectual Disabilities estimates it will cost approximately \$900,000 to implement the recovery house certification program in the first year.

(b) On a continuing basis: The Department for Behavioral Health, Developmental, and Intellectual Disabilities estimates it will cost approximately \$900,000 annually, on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation will be funded through a combination of federal grant funds 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: The new administrative regulation may result in an increased need for funding and or the establishment of fees dependent upon the request from the impacted entities. The impact is unknown at this time and is being implemented at no cost to the applicants.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:
This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because this administrative regulation will be applied in a like manner statewide.

FISCAL NOTE

Administrative Regulation: 908 KAR 1:410
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Phone Number: (502) 782-7212
Email: Rachael.ratliff@ky.gov

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(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?

The Cabinet for Health and Family Services, Department for Behavioral Health, Developmental and Intellectual Disabilities.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.
KRS 222.502

(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? This administrative regulation will not generate any revenue in the first year.

(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? This administrative regulation will not generate any revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The Department for Behavioral Health, Developmental, and Intellectual Disabilities estimates it will cost approximately \$900,000 to implement the recovery house certification program in the first year.

(d) How much will it cost to administer this program for subsequent years? The Department for Behavioral Health, Developmental, and Intellectual Disabilities estimates it will cost approximately \$900,000 annually, 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: To administer this regulation, funds are needed to support salaries of at least 8 full-time staff to implement the certification process, travel

reimbursement to perform recovery residence site visits, training and technical assistance, community outreach and education. These costs also include the funds necessary to purchase, implement, and utilize a data management platform.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation will not generate cost savings for the regulated entities in the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation will not generate cost saving for the regulated entities in subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation should not cost regulated entities in the first year for the provision of already established services.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation should not cost regulated entities in subsequent years for the provision of already established services.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings(+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation should not have a major economic impact.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR BEHAVIORAL HEALTH, INTELLECTUAL AND
DEVELOPMENTAL DISABILITIES

908 KAR 1:410
Recovery House Certification
Summary of Material Incorporated by Reference

1. The Form "Kentucky Recovery Housing Assurances", 07/24, incorporated by reference, is used by applicants for recovery house certification to provide certain assurances by the owner/operator of compliance with local, state, and federal requirements and laws. This form contains (2) pages.
2. The Form "Kentucky Recovery Housing Certification Application", 07/24, incorporated by reference, is used by individuals and organizations to apply for recovery house certification. This form contains (2) pages.
3. The Form "Kentucky Recovery Housing Code of Ethics", 07/24, incorporated by reference, is used by individuals and organizations that apply for recovery house certification to ensure individuals associated with the recovery house have signed and agreed to operate in compliance with the code of ethics. This form contains (2) pages.
4. The Form "NARR Standard 3.0", 2018, incorporated by reference are the national standards an applicant must meet to become a certified recovery house. Included with the standards is a reference guide for users. This form contains (12) pages.

The total number of pages incorporated by reference for this administrative regulation is (18) pages.