Kansas Administrative Regulations

Department of Health and Environment

Article 4.—Maternal and Child Health—Secure Residential Treatment Facilities.

28-4-331. Licensing procedures.

(a) A person shall not operate a secure residential treatment facility that provides treatment to youth under 16 years of age, unless issued a license by the department.

(b) Each person desiring to operate a secure residential treatment facility that provides treatment to youth under 16 years of age shall submit the following:

(1) An application for a license on forms provided by the department; and

(2) the license fee as specified in K.S.A. 65-505, and amendments thereto.

(c) In addition to the application for a license, each applicant shall submit the following:

(1) A written proposal that details the following:

(A) The purpose of the facility;

(B) the administration plan for the program, including an organizational chart;

(C) the financing plan for the program;

(D) staffing for the program, including job descriptions; and

(E) services and treatment to be offered, including the number, age range, and sex of youth to be served;

(2) a copy of the written notification that was submitted to the school district where the facility is located, including the following:

(A) The planned opening date;

(B) the number, age range, and anticipated special education needs of the residents to be served; and

(C) a request for on-site educational services or a request for approval of proposed alternative formal schooling to be provided by the licensee as specified in K.A.R. 28-4-336; and

(3) documentation that the notification required by paragraph (c)(2) was received by the school district at least 90 days before the planned opening date.

(d) Each applicant shall submit a report, on forms provided by the department, containing the identifying information that is necessary to complete criminal history and child abuse registry background checks for all persons 10 years of age and older residing, working, or regularly volunteering in the secure residential treatment facility.

(1) The identifying information shall be submitted on a report as follows:

(A) At the time of application for an original license;

(B) at the time of application for renewal of a license; and

(C) before each new person resides, works, or regularly volunteers in the secure residential treatment facility.

(2) A copy of each report shall be kept on file at the facility.

Youth admitted into a secure residential treatment facility for care and treatment shall not be considered to be residing in the secure residential treatment facility for the purposes of criminal history or child abuse background checks.

(e) Each applicant shall submit to the department plans for each building that will be used as a secure residential treatment facility. Each plan shall state whether or not the secure residential treatment facility will rely on locked entrances and exits to secure the facility.

(f) Each applicant shall submit a code footprint for each building to be used as a secure residential treatment facility to the Kansas state fire marshal's office for approval. Each applicant shall provide to the department a copy of the approval of the Kansas state fire marshal's office before a license is issued.

(g) Each applicant shall be issued a license if the secretary finds that the applicant is in compliance with the requirements of K.S.A. 65-501 through 65-516, and amendments thereto, and the regulations promulgated pursuant to these statutes and if the license fee required by K.S.A. 65-505, and amendments thereto, is submitted. Each license shall be prominently displayed within the facility.

(h) Each licensee who wishes to renew the license shall apply for renewal of the license annually on forms supplied by the department and shall submit the fee as specified in K.S.A. 65-505, and amendments thereto.

(i) Request to withdraw an application or terminate a license.

(1) Each applicant shall inform the department if the applicant desires to withdraw the application. The withdrawal of the application shall be acknowledged by the department in writing. A new application and a new fee shall be required before opening a facility. No applicant shall admit a child before the applicant receives a license.

(2) Each licensee shall inform the department if the licensee desires to terminate the license. The licensee shall return the license to the department with the request to terminate the license. The request and the license shall be accepted by the department. The licensee and other appropriate agencies shall be notified by the department that the license is terminated and that the facility is considered closed. The former licensee shall submit a new application and fee to the department if that person desires to obtain a new license. That person shall not reopen the facility or admit any child before receiving a new license.

(j) A new application and fee shall be submitted for each change of ownership, sponsorship, or location.

(k) Grievance procedures.

(1) Each applicant or licensee receiving notice of the denial or revocation of a license shall be notified of the right to request an administrative hearing by the secretary, and subsequently of the right of appeal to the district court.

(2) If an applicant or licensee disagrees with a notice documenting any finding of noncompliance with licensing statutes or regulations, the applicant or licensee may request an explanation of the finding from the secretary's designee. If the explanation is not satisfactory to the applicant or licensee, the applicant or licensee may submit a written request to the secretary for reconsideration of the finding. The written request shall identify the finding in question and explain why the applicant or licensee believes that the finding should be changed. The request shall be made to the secretary within 10 days after receiving the explanation.

(l) Exceptions.

(1) Any applicant or licensee may submit to the department a written request for an exception to a regulation. An exception may be granted if the secretary or the

secretary's designee determines the exception to be in the best interest of a youth or the youth's family, and if the exception does not violate statutory requirements.

(2) Written notice of each request for an exception that is approved by the secretary shall be provided to the applicant or licensee by the secretary or the secretary's designee. Each written notice shall state the nature and duration of the exception. This notice shall be posted with the license.

(m) Each licensee shall notify the secretary and obtain written approval from the secretary before making any change in any of the following:

(1) The use of the buildings; or

(2) the program, provided through either of the following:

(A) Direct services; or

(B) agreements with specified community resources.

(n) The notification of a proposed change in the program shall include the following:

(1) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

(2) documentation that the notification required by paragraph (n)(1) was received by the school district at least 90 days before the anticipated date of any proposed change.

(o) Amended license.

(1) Each licensee shall submit a request for an amended license and a $35.00 fee to the secretary if the licensee desires to make any change in any of the following:

(A) The license capacity;

(B) the age of the children to be served; or

(C) the living units.

(2) Each request for a change in license capacity or the age range of children to be served shall include the following:

(A) A copy of the written notification of the proposed change that was submitted to the school district where the facility is located; and

(B) documentation that the notification required in paragraph (o)(2)(A) was received by the school district at least 90 days before the anticipated date of any proposed change.

(3) The licensee shall make no change unless permission is granted, in writing, by the secretary. If granted, the licensee shall post the amended license, and the prior license shall no longer be in effect.

(p) Waiver of 90-day notification to the local school district. The 90-day notification to the local school district may be waived by the secretary upon receipt of a written agreement by the local school district.

This regulation shall be effective on and after July 30, 2002.

(Authorized by K.S.A. 2001 Supp. 65-508; implementing K.S.A. 2001 Supp. 65-501, 65-504, 65-505, 65-506, 65-508, and 65-516; effective, T-28-7-8-99, July 8, 1999; effective Nov. 5, 1999; amended, T-28-4-1-02, April 1, 2002; amended July 30, 2002.)

***** Authenticated Kansas Administrative Regulation *****