

Article 12

Batterer Intervention Program Requirements and Certification

K.A.R. 16-12-1. Scope. The regulations in this article shall provide for the certification of, and shall set the standards for the services and programs required of, certified batterer intervention programs, including the following: (a) Any certified batterer intervention program providing the domestic violence offender assessment pursuant to K.S.A. 12-4509, K.S.A. 21-5414, K.S.A. 21-6604, or K.S.A. 22-2909, and amendments thereto; and

(b) any program operating or providing services as a batterer intervention program, domestic violence or abuse intervention program, or domestic violence educational program for those convicted of a domestic violence-designated offense or as part of a diversion agreement in a complaint alleging a domestic violence offense, as defined in K.S.A. 21-5111 and amendments thereto. (Authorized by 2012 SB 304, § 11; implementing 2012 SB 304, §§ 1, 11; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-2. Definitions. Words or phrases used in this article or in the batterer intervention program certification act (“act”) but not defined in this regulation shall have the same definition as specified in the act or in K.S.A. 21-5111, and amendments thereto. Each of the following terms, as used in this article, shall have the meaning specified in this regulation: (a) “Continuing education” means formally organized programs or activities that are designed for and have content intended to enhance the knowledge, skill, values, ethics, and ability to practice as an “agent or employee thereof,” as defined by 2012 SB 304, §13 (a)(1) and amendments thereto.

(b) “Controlled substance” means any drug, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111, and 65-4113, and amendments thereto.

(c) “Remedial or other requirements” means either of the following:

(1) Completion of additional education or training for agents or employees to address the concerns identified by the attorney general; or

(2) changes to the structure of the program to address the concerns identified by the attorney general.

(d) “Supervisee” means an agent or employee of a certified batterer intervention program who receives instruction or direction for the purpose of development of responsibility, skill, knowledge, attitudes, and ethical standards of practice in batterer intervention services from a batterer intervention program director, program supervisor, or program coordinator.

(e) “Unprofessional conduct,” for an agent or employee who is not licensed by the Kansas behavioral sciences regulatory board, means any of the following acts:

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(1) Obtaining or attempting to obtain a certification or temporary permit by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(2) failing to notify the attorney general, within a reasonable period of time, that any one of the following conditions applies to an agent or employee:

(A) Had a professional license, credential, permit, registration, or certification limited, conditioned, qualified, restricted, suspended, revoked, refused by the proper regulatory authority in Kansas or of another state, territory, or the District of Columbia. A certified copy of the action taken by the jurisdiction shall be conclusive evidence of this action;

(B) has voluntarily surrendered a professional license, credential, permit, registration, or certification while a complaint or investigation is pending by the proper regulatory authority;

(C) has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for misfeasance, malfeasance, or nonfeasance;
or

(D) has been convicted of a felony;

(3) knowingly allowing another individual to use one's permit or certification unlawfully;

(4) impersonating another individual holding a permit or certification;

(5) having been convicted of a crime resulting from or relating to the provision of certified batterer intervention services;

(6) furthering the certification or permit application of another person who is known to be unqualified with respect to character, education, or other relevant eligibility requirements according to K.A.R. 16-12-4;

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(7) knowingly aiding or abetting anyone who does not have certification or a permit to represent that individual as a person who does have certification or a permit;

(8) failing or refusing to cooperate in a timely manner with any request from the attorney general for a response or assistance with respect to the attorney general's investigation of any report of an alleged violation of the batterer intervention program certification act or any law filed against oneself or any other applicant. It shall be prima facie evidence of failing or refusing to cooperate within this subsection if a person takes longer than 30 days to provide the requested response, information, or assistance, unless the person shows good cause or receives an extension by the attorney general;

(9) offering to perform or performing services outside the scope of one's training, education, and competency;

(10) treating any offender, victim, or supervisee in a cruel manner, including the intentional infliction of pain or suffering;

(11) discriminating against any offender, victim, or supervisee on the basis of color, race, gender, religion, national origin, or disability;

(12) failing to provide each offender with a description of services, consultation, reports, fees, billing, intervention regimen, or schedule, or failing to reasonably comply with these descriptions;

(13) failing to inform each offender or supervisee of any financial interests that might accrue to the provider from referral to any other service or from the use of any tests, books, or apparatus;

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(14) failing to inform each offender, victim, and supervisee of the purposes for which information is obtained, the manner in which the information may be used, and the limits of confidentiality regarding the provision of batterer intervention services;

(15) revealing information, a confidence, or secret of any victim, or failing to protect the confidences, secrets, or information contained in a victim's records, except when at least one of the following conditions is met:

(A) Disclosure is required by law;

(B) disclosure is authorized by law because the confidential information shows that the person could seriously harm an individual or the public; or

(C) the provider, or the provider's employee or agent, is a party to a civil, criminal, or disciplinary investigation or action arising from the batterer intervention program practice, in which case disclosure shall be limited to that action;

(16) failing to protect the confidences of, secrets of, or information concerning other persons when providing an offender with access to that offender's records;

(17) engaging in professional activities, including billing practices and advertising, involving dishonesty, fraud, deceit, or misrepresentation;

(18) using alcohol or illegally using any controlled substance while performing duties or services as a batterer intervention provider;

(19) making sexual advances toward, engaging in physical intimacies or sexual activities with, or exercising undue influence over any person who, within the past 24 months, has been a victim or offender receiving batterer intervention services, or a victim or offender's known

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family members;

(20) exercising undue influence over any victim, offender, or supervisee, including promoting sales of services or goods, in a manner that will exploit the person or persons for the purpose of financial gain, personal gratification, or advantage of oneself or a third party;

(21) directly or indirectly offering or giving to a third party or soliciting, receiving, or agreeing to receive from a third party any fee or other consideration for the referral of the victim or offender;

(22) permitting any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm, or a consultant providing batterer intervention services;

(23) soliciting or assuming professional responsibility for offenders served by another batterer intervention program without informing and attempting to coordinate continuity of offender services with that program;

(24) making claims of professional superiority that one cannot substantiate;

(25) guaranteeing that satisfaction or a cure will result from the performance of professional services;

(26) claiming or using any secret or special method of intervention or techniques that one refuses to divulge to the attorney general;

(27) continuing or ordering tests, procedures, interventions, or services not warranted by the condition or best interests of the offender;

(28) failing to maintain for each offender and victim a record that conforms to the

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following minimal standards:

(A) Contains a unique identifying number or other method for specific identification of the offender and victim;

(B) indicates the offender's initial reason for seeking the provider's services;

(C) contains specific information concerning the offender's condition, including the Kansas domestic violence offender assessment, affidavits, police reports, and other documents related to criminal activity as allowed by law and available to the provider;

(D) summarizes the intervention, tests, procedures, and services that were obtained, performed, ordered, or recommended and the findings and results of each;

(E) documents the offender's progress during the course of intervention;

(F) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;

(G) indicates the date and nature of any professional service that was provided; and

(H) describes the manner and process by which the professional relationship terminated;

(29) taking credit for work not performed personally, whether by giving inaccurate or misleading information or by failing to disclose accurate or material information;

(30) making or filing a report that one knows to be erroneous, incomplete, or misleading;

(31) failing to retain offender's records for at least two years after the date of termination of the professional relationship, unless otherwise provided by law;

(32) failing to exercise supervision over any supervisee;

(33) failing to inform an offender if services are provided or delivered under supervision

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or direction;

(34) engaging in, or attempting to engage in, any relationship in which the objectivity or competency of the provider may become impaired or compromised due to any of the following present, previous, or future relationships with a victim, offender, or supervisee:

- (A) Familial;
- (B) sexual;
- (C) emotional; or
- (D) financial; or

(35) using without a temporary permit or certification, or continuing to use after the expiration of a permit or certification, any title or abbreviation prescribed by the attorney general for use only by those with a current temporary permit or certification.

(f) "Unprofessional conduct," for an agent or employee who is licensed by the Kansas behavioral sciences regulatory board, means any of the following acts:

(1) Any determination by the Kansas behavioral sciences regulatory board of a violation of laws or regulations related to one's licensure. A certified copy of the action taken by the Kansas behavioral sciences regulatory board shall be conclusive evidence of this action;

(2) obtaining or attempting to obtain a certification or temporary permit by means of fraud, bribery, deceit, misrepresentation, or concealment of a material fact;

(3) failing to notify the attorney general of any complaint, investigation, or finding regarding the licensee within 10 days, unless the person shows good cause or receives an extension by the attorney general;

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(4) failing to notify the attorney general that any one of the following conditions applies to the licensee:

(A) Has been demoted, terminated, suspended, reassigned, or asked to resign from employment, or has resigned from employment, for misfeasance, malfeasance, or nonfeasance;
or

(B) has been convicted of a felony;

(5) knowingly allowing another individual to use one's temporary permit or certification unlawfully;

(6) impersonating another individual holding a temporary permit or certification;

(7) having been convicted of a crime resulting from or relating to the provision of certified batterer intervention program services;

(8) furthering the certification or permit application of another person who is known to be unqualified with respect to character, education, or other relevant eligibility requirements;

(9) knowingly aiding or abetting anyone who does not have certification or a permit to represent that individual as a person who does have certification or a permit;

(10) failing or refusing to cooperate in a timely manner with any request from the attorney general for a response or assistance with respect to the attorney general's investigation of any report of an alleged violation of the batterer intervention program certification act or any law filed against oneself or any other applicant. It shall be prima facie evidence of failing or refusing to cooperate within this subsection if a person takes longer than 30 days to provide the requested response, information, or assistance, unless the person shows good cause or receives

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an extension by the attorney general;

(11) revealing information, a confidence, or secret of any victim, or failing to protect the confidences, secrets, or information contained in a victim's records, unless one of these conditions is met:

(A) Disclosure is required by law;

(B) disclosure is authorized by law because the confidential information shows that the person could seriously harm an individual or the public; or

(C) the provider, or the agent or employee of the provider, is a party to a civil, criminal, or disciplinary investigation or action arising from the batterer intervention program practice, in which case disclosure shall be limited to that action;

(12) claiming or using any secret or special method of intervention or techniques that one refuses to divulge to the attorney general;

(13) failing to maintain for each offender and victim a record that conforms to the following minimal standards:

(A) Contains a unique identifying number or other method for specific identification of the offender and victim;

(B) indicates the offender's initial reason for seeking the provider's services;

(C) contains specific information concerning the offender's condition, including the "Kansas domestic violence offender assessment form," affidavits, police reports, and other documents related to criminal activity as allowed by law and available to the provider;

(D) summarizes the intervention, tests, procedures, and services that were obtained,

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performed, ordered, or recommended and the findings and results of each;

(E) documents the offender's progress during the course of intervention;

(F) contains only those terms and abbreviations that are comprehensible to similar professional practitioners;

(G) indicates the date and nature of any professional service that was provided; and

(H) describes the manner and process by which the professional relationship terminated;

or

(14) using without a temporary permit or certification, or continuing to use after the expiration of a permit or certification, any title or abbreviation prescribed by the attorney general for use only by those with a current permit or certification. (Authorized by 2012 SB 304, §§ 5, 11; implementing 2012 SB 304, §§ 5, 6, 11; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-3. Continuing education. (a) Continuing education hours shall be approved by the attorney general.

(b) Continuing education hours shall include those hours required for a temporary permit, initial certification, renewal certification, and certification reinstatement.

(c) Each batterer intervention program “agent or employee thereof,” as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto, shall meet the following requirements:

(1) Complete 40 hours of continuing education as described in “the essential elements and standards of batterer intervention programs in Kansas,” which is adopted by reference in K.A.R. 16-12-4; and

(2) complete 12 hours of documented and approved continuing education oriented to the enhancement of a batterer intervention program agent’s or employee’s practice, values, ethics, skills, or knowledge during each two-year renewal period. Continuing education hours accumulated in excess of the requirement shall not be carried over to the next renewal period.

(d) One hour of continuing education credit shall consist of at least 50 minutes of classroom instruction or at least one clock-hour of other types of acceptable continuing education experiences listed in subsection (e). One-half hour of continuing education credit may be granted for each 30 minutes of acceptable continuing education. Credit shall not be granted for fewer than 30 minutes.

(e) Acceptable continuing education, subject to approval, whether taken within the state or outside the state, shall include the following:

(1) An academic domestic violence course or an academic course oriented to the enhancement of a batterer intervention program agent’s or employee’s practice, values, ethics, skills, or knowledge that is taken for academic credit. Each agent or employee shall be granted

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15 continuing education hours for each academic credit hour that is successfully completed. The maximum number of allowable continuing education hours shall be 15;

(2) an academic domestic violence course or an academic course oriented to the enhancement of a batterer intervention program agent's or employee's practice, values, ethics, skills, or knowledge that is audited. Each agent or employee shall receive continuing education credit on the basis of the actual contact time that the agent or employee spends attending the course, up to a maximum of 15 hours per academic credit hour. The maximum number of allowable continuing education hours shall be 15;

(3) a seminar, institute, conference, workshop, or course oriented to the enhancement of a batterer intervention program agent's or employee's practice, values, ethics, skills, or knowledge. The maximum number of allowable continuing education hours shall be 15; and

(4) an activity oriented to the enhancement of a batterer intervention program agent's or employee's practice, values, ethics, skills, or knowledge, consisting of completing a computerized interactive learning module, viewing a telecast or videotape, listening to an audiotape, or reading, if a posttest is provided. The maximum number of allowable continuing education hours shall be 15.

(f) Approval of continuing education credit shall not be granted for the second or any subsequent identical program if the programs are completed within the same renewal period.

(g) Continuing education credit shall not be granted for the following:

(1) In-service training, if the training is for job orientation or job training or is specific to the employing agency; and

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(2) any activity for which the agent or employee cannot demonstrate to the attorney general's satisfaction that the program's goals and objectives are to enhance the practice, values, ethics, skills, or knowledge in batterer intervention.

(h) Each agent or employee shall maintain individual, original continuing education records for at least two years. These records shall document the agent's or employee's attendance at, participation in, or completion of each continuing education activity.

(i) Each of the following forms of documentation shall be accepted as proof that an agent or employee has completed that continuing education activity:

(1) An official transcript or other document indicating the agent's or employee's passing grade for an academic course;

(2) a statement signed by the instructor of an academic course indicating the number of actual contact hours that the agent or employee attended for an audited academic course;

(3) a signed statement from the provider of a seminar, institute, conference, workshop, or course indicating that the agent or employee attended the continuing education program; and

(4) for each videotape, audiotape, computerized interactive learning module, or telecast that the agent or employee utilized for continuing education purposes, a written statement from the agent or employee specifying the media format, content title, presenter or sponsor, content description, length, activity date, and copy of the agent's or employee's completed posttest or score. (Authorized by and implementing 2012 SB 304, §§ 5, 11; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-4. Program requirements. Each holder of a temporary permit, initial certification, renewal certification, or certification reinstatement shall perform the following: (a) Adopt and follow the standards, elements, and other program requirements described in the document titled "the essential elements and standards of batterer intervention programs in Kansas," dated June 15, 2012, by the Kansas attorney general office, which is hereby adopted by reference except for the acknowledgements, table of contents, philosophy and purpose, and theoretical overview of batterer intervention programs; and

(b) submit the attorney general's document titled "certified batterer intervention program statistical report" with the required information. This document, dated June 13, 2012, is hereby adopted by reference. The "certified batterer intervention program statistical report" shall be completed and submitted to the attorney general on or before January 5 and July 5 in each year of certification or the first business day following these deadlines if the deadlines fall on a weekend or state or federal holiday. (Authorized by 2012 SB 304, § § 5, 11; implementing 2012 SB 304, §§ 5, 11 ; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-5. Domestic violence offender assessment. (a) The document titled "Kansas attorney general domestic violence offender assessment form," dated March 3, 2011, by the Kansas attorney general is hereby adopted by reference. This document is also known as "KDVOA."

(b) Except as specified in subsection (c), the KDVOA shall be completed by one of the following: an individual who is licensed to practice in Kansas as a psychologist, baccalaureate social worker, master social worker, specialist clinical social worker, marriage and family therapist, addiction counselor, clinical addiction counselor, clinical marriage and family therapist, professional counselor, clinical professional counselor, master's level psychologist, or clinical psychotherapist.

(c) Any person who is not licensed as provided in subsection (b) and who is completing the KDVOA as an employee of or volunteer for a batterer intervention program before January 1, 2013 may continue to complete these assessments on and after January 1, 2013 if the person remains an employee of or volunteer for the same program and the program remains a certified batterer intervention program. Whenever the person is no longer an employee of or volunteer for the program in which the person was employed or volunteering before January 1, 2013, the person shall not be allowed to complete the KDVOA for any certified batterer intervention program without meeting the license requirements in subsection (b). (Authorized by K.S.A. 2011 Supp. 75-755 and 2012 SB 304, § 11; implementing K.S.A. 2011 Supp. 21-6604, as amended by 2012 SB 304, § 16, and 2012 SB 304, §§ 1, 5; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-6. Temporary permit; application. Each applicant seeking a temporary permit shall submit an application, on a form provided by the attorney general, to the attorney general.

The completed application for a temporary permit shall include the following: (a) The applicant's full name and residential address;

(b) the name under which the applicant intends to do business and the business address;

(c) a statement of the general nature of the business in which the applicant intends to engage;

(d) a statement of the education and work experience of the applicant and any "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(e) a statement that the applicant has met any other qualifications specified in "the essential elements and standards of batterer intervention programs in Kansas," which is adopted by reference in K.A.R. 16-12-4;

(f) payment of the temporary permit application fee of \$50.00; and

(g) any other information, evidence, statements, or documents supporting the application for temporary permit that are required by the attorney general, including the following:

(1) A copy of completed certificates documenting domestic violence-specific continuing education hours for each "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(2) proof of current licensure by the Kansas behavioral sciences regulatory board; and

(3) a copy of the core curriculum to be used in batterer intervention services. (Authorized by 2012 SB 304, § 11; implementing 2012 SB 304, § 2; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-7. Initial certification; application. Each applicant seeking initial certification shall submit an application, on a form provided by the attorney general, to the attorney general. The completed application for initial certification shall include the following: (a) The applicant's full name and residential address;

(b) the name under which the applicant intends to do business and the business address;

(c) a statement of the general nature of the business in which the applicant intends to engage;

(d) a statement of the education and work experience of the applicant and any "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(e) a statement that the applicant has met any other qualifications specified in "the essential elements and standards of batterer intervention programs in Kansas," which is adopted by reference in K.A.R. 16-12-4;

(f) payment of the initial application fee of \$100.00; and

(g) any other information, evidence, statements, or documents supporting the application for initial certification that are required by the attorney general, including the following:

(1) A copy of completed certificates totaling 40 domestic violence-specific continuing education hours for each "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(2) proof of current licensure by the Kansas behavioral sciences regulatory board for each licensed "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(3) a copy of the core curriculum to be used in batterer intervention services;

(4) demonstration by the applicant of an established relationship with the domestic

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violence victim service program that serves the geographical area in which the batterer intervention program is located; and

(5) a copy of release of information and offender agreement forms. (Authorized by 2012 SB 304, § 11; implementing 2012 SB 304, § 2; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-8. Renewal certification; application. Each applicant seeking renewal certification shall submit an application, on a form provided by the attorney general, to the attorney general. The completed application for renewal certification shall include the following:

(a) The applicant's full name and residential address;

(b) the name under which the applicant intends to do business and the business address;

(c) a statement of the general nature of the business in which the applicant intends to engage;

(d) a statement of the educational and work experience of the applicant and any "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(e) a statement that the applicant has met any other qualifications described in "the essential elements and standards of batterer intervention programs in Kansas," which is adopted by reference in K.A.R. 16-12-4;

(f) payment of the renewal application fee of \$100.00; and

(g) any other information, evidence, statements, or documents supporting the application for renewal certification that are required by the attorney general, including the following:

(1) A copy of completed certificates totaling 12 domestic violence-specific continuing education hours for each "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(2) proof of current licensure by the Kansas behavioral sciences regulatory board for each licensed "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto; and

(3) demonstration by the applicant of an established relationship with the domestic violence victim service program that serves the geographical area in which the certified batterer

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intervention program is located. (Authorized by 2012 SB 304, § 11; implementing 2012 SB 304,
§ 2; effective, T-_____, _____; effective P-_____.)

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K.A.R. 16-12-9. Certification reinstatement; application. Each applicant seeking certification reinstatement shall submit an application, on a form provided by the attorney general, to the attorney general. The completed application for certification reinstatement shall include the following: (a) The applicant's full name and residential address;

(b) the name under which the applicant intends to do business and the business address;

(c) a statement of the general nature of the business in which the applicant intends to engage;

(d) a statement of the education and work experience of the applicant and any "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(e) a statement that the applicant has met any other qualifications described in "the essential elements and standards of batterer intervention programs in Kansas," which is adopted by reference in K.A.R. 16-12-4;

(f) payment of the reinstatement application fee of \$100.00;

(g) a statement regarding the reason requiring reinstatement of certification; and

(h) any other information, evidence, statements, or documents supporting the application for reinstatement that are required by the attorney general, including the following:

(1) A copy of completed certificates totaling 12 domestic violence-specific continuing education hours for each "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto;

(2) proof of current licensure by the Kansas behavioral sciences regulatory board for each licensed "agent or employee thereof," as defined by 2012 SB 304, § 13 (a)(1) and amendments thereto; and

(3) demonstration by the applicant of an established relationship with the domestic

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violence victim service program that serves the geographical area in which the batterer
intervention program is located. (Authorized by 2012 SB 304, § 11; implementing 2012 SB 304,
§ 2; effective, T-_____, _____; effective P-_____.)

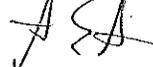
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K.A.R. 16-12-10. Evaluating and monitoring certified batterer intervention programs. (a)

For the purposes of evaluation and monitoring certified batterer intervention programs, the attorney general shall have the right to complete site visits, as needed, for the following:

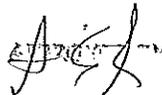
- (1) Any applicant's program;
 - (2) any program issued a temporary permit to act as a certified batterer intervention program; and
 - (3) any certified batterer intervention program.
- (b) These site visits may include the following:
- (1) Observing groups or assessment services;
 - (2) reviewing offender and victim files, records, or documents related to the provision of batterer intervention services;
 - (3) contacting community members or third parties who could provide information related to services provided in the capacity of a batterer intervention program;
 - (4) interviewing offenders who are receiving or have received services from the program;
 - (5) interviewing victims or family members associated with the offenders who are receiving or have received services from the batterer intervention program; and
 - (6) performing any other activities identified as necessary in evaluating and monitoring the program. (Authorized by 2012 SB 304, § 11; implementing 2012 SB 304, §§ 8, 11; effective, T-_____, _____; effective P-_____.)

ATTORNEY GENERAL

DEPT. OF ADMINISTRATION

JUN 26 2012

JUN 26 2012



APPROVED