

NOTICE OF PROPOSED RULE

DEPARTMENT OF CHILDREN AND FAMILIES Office of Child Welfare

RULE NO.: RULE TITLE:
65C-28.021 Qualified Residential Treatment Programs.

PURPOSE AND EFFECT: Amendments align with new statutory provisions regarding qualified evaluators pursuant to chapter law 2022-55 and with program requirements with the newly created Rule 65C-46.0211 to establish the licensing of qualified residential treatment programs that will be licensed solely by the Department.

SUMMARY: Amendments include: (1) removing duplicative language, (2) adds language to outline the two different paths to completing an assessment when a child is in need of placement in a QRTP licensed by DCF or a residential treatment center licensed by AHCA and credentialed by DCF, (3) updates aftercare requirements, (4) adds language regarding requesting reconsideration, and (5) cleans up the language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The agency has determined that this rule will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Department used a checklist to conduct an economic analysis and determine if there is an adverse impact or regulatory costs associated with this rule that exceeds the criteria in section 120.541(2)(a), F.S. Based upon this analysis, the Department has determined that the proposed rule is not expected to require legislative ratification.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 39.0121, 409.175(5) F.S.

LAW IMPLEMENTED: 39.407, 409.175 F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elizabeth Floyd. Elizabeth can be reached at Elizabeth.Floyd@myflfamilies.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

65C-28.021 Qualified Residential Treatment Programs.

This rule applies to qualified residential treatment programs (QRTP). A QRTP is a licensed child-caring agency that provides care for youth who have serious emotional or behavioral disorders or disturbances.

(1) Placement of a child in a qualified residential treatment program (QRTP) is for the specific purpose of

addressing the child's emotional and behavioral health needs through observation, diagnosis, and treatment in a treatment setting. QRTPs ~~must~~ shall not be used for emergency placements or to provide secure shelter for the child. If the child is in acute psychiatric crisis, the child ~~must~~ shall be referred to a crisis stabilization unit for emergency screening and stabilization in accordance with Sections 394.463 and 394.467, F.S.

(2) The community-based care (CBC) lead agency ~~must~~ shall maintain documentation of a child's placement in a QRTP and is responsible for ensuring that each child receives ~~an a-suitability~~ assessment prior to placement in the QRTP.

(3) For placement in a behavioral qualified residential treatment program (BQRTP) licensed pursuant to Rule 65C-46.0211, F.A.C. the assessment must be completed by the Qualified Individual (QI). A Qualified Individual is the child's treating licensed clinical professional, a Qualified Evaluator outlined in s. 39.407(6), F.S., or a Comprehensive Behavioral Health Assessor who meets the qualifications as required in the Agency for Health Care Administration, "Specialized Therapeutic Services Coverage and Limitations Handbook," March 2014, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX>.

(a) A child may be placed in a BQRTP based on the preliminary assessment recommendation from a QI. However, the final assessment by QI must be completed within 30 calendar days to continue placement in the setting.

(b) A preliminary assessment must include the following components:

1. A face-to-face attempt with the child.
2. Review of the Comprehensive Placement Assessment completed during the placement multidisciplinary team staffing pursuant to Rule 65C-30.023, F.A.C., and
3. The reasons that support the preliminary recommendation for placement.

(c) The final assessment must include the components set forth in paragraph (5).

(4) For placements in a QRTP credentialed pursuant to Rule 65C-46.021, F.A.C., the assessment must be completed by a Qualified Evaluator (QE) pursuant to s. 39.407(6), F.S. The assessment must include the components set forth in paragraph (5).

(5)(3) Each placement assessment must include the following components:

(a) A suitability assessment includes the development of ~~Short~~ short term and long term mental and behavioral health goals;

~~(b) If the child has a serious emotional or behavioral disorder or disturbance, and the use of the Child and Adolescent Needs and Strengths (CANS) Trauma Comprehension assessment tool, March 2013, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-13092>, by a qualified evaluator (QE) to make a determination of placement in a QRTP setting concerning a child who has a serious emotional or behavioral disorder or disturbance.~~

~~(4) The suitability assessment must be conducted by a QE who meets the following requirements:~~

~~(a) Is a psychiatrist or psychologist pursuant to Section 39.407(6), F.S.;~~

~~(b) Has at least 2 years' experience working with children or adolescents involved in the child welfare system of care;~~

~~(c) Has no actual or perceived conflict of interest with placement in a QRTP; and~~

~~(d) Has completed training pertaining to the population of children in the child welfare system. Training topics shall include, but are not limited to, trauma-informed care and human trafficking.~~

~~(c)(5) The QE must conduct A a review of prior treatment records and consultation ~~spea~~k with relevant parties in the child's life, including, but not limited to, the guardian ad litem, case manager, current caregiver, the child's family, Department of Juvenile Justice staff worker, treating clinical professional, and the child's attorney; ~~and the permanency team.~~~~

~~(a) The treating clinical profession shall be a member of the permanency team.~~

~~(d)(b) The QE shall consider The the recommendation of the child's treating clinical professional; and when conducting the assessment.~~

~~(c)(6) The QE must conduct An an interview with the child.~~

~~1.(a) While face to face contact is the preferred method for contact with the child, the QE may utilize telehealth may be utilized while abiding by the Agency for Health Care Administration (AHCA) telehealth guidelines when using a Medicaid service.~~

~~2.(b) If the child refuses to participate in the interview, the assessment must include When a child refuses to participate in the interview, the QE must make good faith efforts to engage the child. Good faith efforts are defined as documented efforts that demonstrate the assessor QE took all steps in light of the child's age, intelligence, emotional development and stability, and demeanor to enable the child to participate in a conversation with the QE that could aide or assist in obtaining information to determine whether the child needs QRTP placement. ~~meets the~~~~

~~criteria for needing placement in a qualified residential treatment program, even if those efforts were not fully successful. Marginal or token efforts to communicate with the child are not sufficient to constitute good faith efforts.~~

~~(7) The QE shall recommend one of the following placement options:~~

~~(a) Placement in a QRTP;~~

~~(b) Placement in a less restrictive setting with wraparound services; or~~

~~(c) Placement in a statewide inpatient psychiatric program.~~

(6) For a child placed in a BQRTP, if the QI's final assessment does not recommend continued placement, the child welfare professional must request a reconsideration in the event the child has experienced a decompensation in mental, emotional, or behavioral health functioning.

(7) If the reconsideration by the QI does not result in a recommendation to continue placement in a BQRTP, the child welfare professional must:

(a) Make arrangements to have the child moved from the program within 30 calendar days of the recommendation.

(b) Request a multidisciplinary team staffing pursuant to s. 39.4022, F.S., to determine placement.

(8) If the QE assessor does not recommend initial QRTP placement, the child welfare professional must request a reconsideration in the event the child has experienced a decompensation in mental, emotional, or behavioral health functioning.

~~(8) If the QE was not provided with all components of the clinical record prior to the assessment or the child has experienced a decompensation in mental or behavioral health functioning since the assessment, the assigned child welfare professional may request a reconsideration.~~

~~(9) If the QE determines the child does not meet criteria for placement in a QRTP, the child's multidisciplinary team shall offer to assist in developing a plan for necessary treatment and support services for the child in the community.~~

~~(10) When the suitability assessment does not recommend placement in a QRTP, the child welfare professional must make arrangements to have the child moved from the program within 30 calendar days of the recommendation.~~

(9)(11) When the assessor recommends placement in a QRTP, within 60 calendar days after initial placement in a QRTP, the Department must ~~shall~~ request the court to approve or disapprove the placement based on the ~~and to consider the suitability~~ assessment, determination, and documentation made by the assessor ~~qualified~~

evaluator. If placement in the QRTP is approved by the court the child welfare professional must request the following if the child remains placed in a QRTP:

(a) A court review every 90 days after the initial 60 day-review, and

(b) An independent assessment which must be completed prior to each 90-day review by the court.

(10) If the assessor does not recommend initial or continued placement in a QRTP, but the court orders the child to be placed in a QRTP after the QE does not recommend placement, the assigned child welfare professional must shall request a reconsideration the QE consider doing a new assessment.

(12) If placement in the QRTP is approved by the initial 60 day court review, the QE must conduct an independent suitability assessment review at least every 90 days after the child's initial placement so long as the child remains placed in a qualified residential treatment program. It is the child welfare professional's responsibility to request a 90 day review from the QE.

(11)(13) If at any time the court denies the motion to place the child into a QRTP or orders the placement of the child into a less restrictive setting during a review hearing, the child welfare professional will follow local protocol to coordinate the referral and placement of the child into the least restrictive setting that is best suited to meet the child's needs. If the child is already in a QRTP, the The child welfare professional must make arrangements to have the child moved from the QRTP program within 30 calendar days of the determination.

(12)(14) Upon immediate placement of a child in a QRTP, a copy of the assessment must be provided to all parties pursuant to s. 39.407(6)(d) F.S. A copy of the suitability assessment must be provided to the Department, community-based care agency or case management agency, the guardian ad litem, parents, child's attorney, and the court having jurisdiction over the child, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(a) The initial suitability assessment shall include, at minimum, the outcome of the interview with the child, review of prior treatment records, contact with relevant parties, whether or not the QE recommends placement in a QRTP, and attachment of the Department-approved evidenced-based functional assessment tool.

(b) The 90 day independent assessment review may be an addendum to the initial assessment and shall include, at minimum, the outcome of a new interview with the child, review of new treatment records, attachment of the Department-approved evidenced-based functional assessment tool, documentation of any psychosocial changes, and whether or not the QE recommends continued placement in a QRTP.

~~(13)(15)~~ A ~~a~~ child may not be placed in a Q RTP for more than 12 consecutive months or 18 nonconsecutive months, or in the case of a child who has not attained age 13, for more than six 6 consecutive or non-consecutive months, without approval of the Department's ~~Regional Managing Director (RMD) or DCF designee~~. Requests for approval must ~~shall~~ be made using the Qualified Residential Treatment Program (Q RTP) Extended Placement Request Form, CF-FSP 5450, Apr 2021, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-13075>. The ~~Department RMD or DCF designee~~ must ~~shall~~ consider the recommendations of the multidisciplinary team staffing conducted within the last 90 calendar days and the most recent ~~suitability~~ assessment recommendation in deciding ~~making a decision~~ whether to approve the continued placement. ~~The RMD or DCF designee shall consult with a Department of Substance Abuse and Mental Health (SAMH) clinical professional regarding their decision to approve.~~ A copy of the signed approval must ~~shall~~ be attached to the child's case plan. The ~~RMD or Department designee~~ must ~~shall~~ provide a determination within seven ~~(7)~~ business days from receipt of the request from the CBC.

~~(14)(16)~~ Discharge and Aftercare Support.

(a) The child welfare professional must participate in discharge ~~Discharge~~ planning and aftercare support ~~shall be developed~~ to meet the needs of the child with intent for the child to reside in the most appropriate, least restrictive setting. Planning must ~~shall~~ include input from the child, child's parent or guardian, caregiver, ~~the child's case management team~~, child's attorney, and guardian ad litem.

~~(b) Aftercare support must be offered to all children who were placed and have a suitability assessment and court order recommending placement in a Q RTP setting. Aftercare support is not required for youth who discharge to another Q RTP setting or higher level of care such as a Statewide In Patient Psychiatric Program (SIPP).~~

~~(b)(e)~~ Aftercare support must be provided for a minimum of six 6 months post discharge. Aftercare support is not required for youth who discharge to another Q RTP setting or higher level of care such as a residential treatment program, also known as Statewide In-Patient Psychiatric Program (SIPP), or therapeutic group home which are defined in s. 39.407(6), F.S.

1. The BQ RTP must provide after care support to all children discharged if placed within a 50-mile radius of the BQ RTP. The child-welfare professional is responsible for aftercare support when a youth is discharged to a placement setting outside a 50-mile radius of the BQ RTP.

2. All youth discharged from a Q RTP credentialed pursuant to Rule 65C-46.021, F.A.C., will receive after care

support from the QRTP credentialed provider.

~~(c)(4)~~ The child welfare professional must ensure written ~~Written~~ aftercare progress reports provided to the child welfare professional by the QRTP are ~~shall be~~ uploaded into the state's official system of record and the child welfare professional must ~~shall~~ notify the court of the child's progress during a judicial review.

~~(15)(17)~~ (15) A child who elopes or is admitted to a higher level of care for crisis services, such as a Baker Act, from a QRTP may be readmitted into the same or newly identified QRTP without an additional assessment as ~~so~~ long as the child was not discharged from the QRTP.

~~(16)(18)~~ (16) If a child transfers from one QRTP to another without a lapse in placement, a new assessment is not required. The CBC must ~~community-based care shall~~ coordinate a multidisciplinary staffing with both QRTP providers to complete a transition plan pursuant to s. 39.4023, F.S., ~~discuss the child's identified needs and sharing of records to allow for adequate continuation of services and treatment.~~

Rulemaking Authority 39.0121 F.S., 409.175(5), FS. Law Implemented 409.175, 39.407 FS. History--New 5-23-21. Amended

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NAME OF PERSON ORIGINATING PROPOSED RULE: Valerie Proctor

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Shevaun L. Harris

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 9, 2023

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 28, 2023