

Notice of Proposed Rule

DEPARTMENT OF CHILDREN AND FAMILIES

Mental Health Program

RULE NOS.:RULE TITLES:

65E-4.014 Standards for Client Records, Treatment and Quality Assurance

65E-4.016 Mental Health Residential Treatment Facilities

PURPOSE AND EFFECT: Amendments are made to clarify policies and procedures regarding mental health residential treatment facilities.

SUMMARY: Amendments: (1) repeal 65E-4.014 since the mandate for the Department to implement the continuity of care management system was removed from statute, (2) clarify the rule language, (3) increase efficiency, (4) remove language that is in statute, other rules or forms, (5) delete obsolete rule provisions, and (6) add discharge planning.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this 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.

A SERC has not been prepared.

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 a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 394.879(1) FS.

LAW IMPLEMENTED: 394.67, 394.875, 394.876, 394.877, 394.879, 394.90, 394.902, 394.903 FS.

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:

The following rules are hereby repealed:

65E-4.014 Standards for Client Records, Treatment and Quality Assurance.

Rulemaking Authority 394.78 FS. Law Implemented 394.4573, 394.75, 394.78 FS. History—New 11-3-82, Formerly 10E-4.14, Amended 4-20-89, 5-23-96, Formerly 10E-4.014, Amended 12-20-98. Repealed.

65E-4.016 Mental Health Residential Treatment Facilities.

(1) Licensure of Mental Health Residential Treatment Facilities. To be licensed as a mental health residential treatment facility an applicant must provide a long term, homelike residential environment that provides care, support, assistance and limited supervision in daily living to adults diagnosed with a serious and persistent major mental illness who do not have another primary residence. ~~Any facility licensed as a residential treatment facility under this rule must sustain a 60 day average or greater length of stay of residents, except as specifically provided for in section 394.875(11), F.S. Any facility providing primarily clinical residential services, either during an urgent care episode or during the 90 days following such an episode shall not be licensable under this rule. Residential treatment facilities that primarily provide treatment for eating disorders, weight loss programs, substance abuse or other specialty psychiatric treatment program are excluded from licensure under this rule.~~

(a) Any facility providing primarily clinical residential services, either during an urgent care episode or during the 90 days following such an episode shall not be licensable under this rule. Residential treatment facilities that primarily provide treatment for substance use or other specialty treatment program are excluded from licensure under this rule.

(b) Short-term residential treatment facilities, regulated under Chapter 65E-12, F.A.C., are excluded from this rule chapter.

(2) Definitions. The definitions provided in this section are limited to this Rule 65E-4.016, F.A.C.

(a) through (b) No change.

(c) “Business Day” means a day in which the Department’s Office of Substance Abuse and Mental Health is operating for business Monday through Friday between 8:00 a.m. and 5:00 p.m. (Eastern Standard Time). “CCMS” means the Department of Children and Family Services Continuity of Care Management System.

(d) No change.

(e) “Licensed Medical Practitioner” means a medical provider who is a physician licensed under Chapter 458 or Chapter 459, F.S., or an advanced practice registered nurse or physician assistant who works under the supervision of a licensed physician and an established protocol pursuant to Sections 458.347, 458.348, 464.003, and 464.0123, F.S. “Department” means the Department of Children and Family Services.

(f) “Individual Service Plan” or “Service Plan” means a document developed by the case manager and resident which depicts service and resource attainment goals and objectives to guide service delivery.

(g) “Individual Treatment Plan” or “Treatment Plan” means a document or section of the individual service plan developed by residential treatment facility staff or the treatment team and the resident which depicts the goals and objectives relating to skill attainment that need to be accomplished within the facility’s environment.

(h) “JCAHO” means the Joint Commission on Accreditation of Healthcare Organizations.

(i) through (j) are redesignated (f) through (g) No change.

(k) “Mental Health Professional” or “Professional” means a clinical psychologist, clinical social worker, physician, psychiatric nurse or psychiatrist as defined in Section 394.455, F.S.

~~(h)(4)~~ “Mental Illness” is as defined in Section 394.455(3), F.S.

(m) is redesignated (i) No change.

~~(j)(n)~~ “Physician” means a person licensed to practice medicine or osteopathic medicine in Florida as defined in Section 394.455, F.S.

(o) is redesignated (k) No change.

~~(l)(p)~~ “Quality Assurance Program” means a systematic approach designed to evaluate the quality of care provided by an agency and to promote and maintain efficient and effective mental health services, as defined in Section 394.67, F.S.

(q) through (r) are redesignated (m) through (n) No change.

~~(o)(s)~~ “Residential Treatment Facility (RTF or facility),” as defined in Section 394.67, F.S. referenced herein as either RTF or facility, means any building, buildings or distinct, physically separated and separately controlled part of a building, whether operated for profit or not, which meets the criteria defined in Section 394.67(14), F.S. Short-term residential treatment facilities, regulated under Chapter 65E-12, F.A.C., are excluded from this definition. The criteria which comprise each level of RTF are specified in subsection 65E-4.016(4), F.A.C.

~~(p)(t)~~ “Restraint” as defined in Section 394.455, F.S. means restricting the movement of a person’s limbs, head or body by the use of mechanical or physical devices for the purpose of preventing injury to self or others.

~~(q)(u)~~ “Seclusion” as defined in Section 394.455, F.S. means the isolation and containment of residents who pose an imminent threat of physical harm to themselves or others.

(v) through (x) are redesignated (r) through (t) No change.

(3) Licensure Procedure. Every RTF is required to obtain a license from must be licensed annually by AHCA unless specifically excluded from licensure under the provisions of Section 394.875(5), F.S. All applicants for licensure must comply with the requirements of Chapter 394, Part IV, F.S., Chapter 408, Part II, F.S. and Chapter 59A-35, F.A.C.

(a) Buildings that are separated from one another in which a similar level of residential care and treatment is provided, as defined in this rule subsection 65E-4.016(4), F.A.C., may be licensed as one facility under the following circumstances:

1. through 2. No change.

(b) No change.

(c) ~~The application for licensure, AHCA Form, 3180-5005, "Health Care Licensing Application, Residential Treatment Facility," is incorporated by reference in Rule 59A-35.060, F.A.C. Original License—New construction, new operation or change of licensed operator. Applicants for an original license shall submit a completed AHCA Form, 3180-5003 Feb. 96, "Crisis Stabilization Unit, Short Term Residential Treatment Facility and Residential Treatment Facility Licensure Application" effective February, 1996, which is incorporated by reference and provided by AHCA. The following supplemental information must be attached to the application:~~

1. Each RTF shall maintain a program ~~Program~~ narrative which contains the following:

a. through b. No change.

c. Resident population description, ~~based minimally on the criteria in subsection 65E 4.016(4), F.A.C.,~~ that are applicable to the level of RTF for which the licensure application is being submitted.

2. ~~Table of Organization, including all management levels between the RTF and the governing board.~~

3. ~~Resume of the RTF manager.~~

4. ~~Fiscal information, including a balance sheet and a statement projecting revenues, expenses, taxes, extraordinary items and other credits and charges for the licensure year.~~

2.5. Each RTF shall maintain ~~Proof of~~ liability insurance coverage from a licensed insurer in an amount not less than \$300,000 per occurrence with a minimal annual aggregate of not less than \$1,000,000.

6. ~~Copy of current fire safety inspection certificate.~~

7. ~~Copy of current health inspection certificate.~~

8. ~~For Level I and II facilities, a signed statement from the appropriate government official that the facility has met applicable local zoning requirements.~~

9. ~~Proof of current JCAHO accreditation, if applicable.~~

(d) A newly developing facility will be provided a 90 day probationary license after the completed application has been verified for compliance with Rule 65E 4.016, F.A.C. The probationary period may be extended for an additional 90 days if the applicant has substantially complied with the requirements for licensure, and if action has been initiated to satisfy all of these requirements.

(e) ~~Renewal License.~~

1. ~~An applicant for renewal of a license shall apply to AHCA no later than 90 days before expiration of the current license.~~

2. ~~Applicants for renewal of a license to operate a facility shall submit an application that meets the requirements of paragraph 65E 4.016(3)(a), F.A.C.~~

(f) ~~License Fee. An annual non refundable license fee shall be submitted with the application for licensure. The fee shall be reasonably calculated annually to cover the cost of regulation. The formula for calculating this fee is the cost of Office of Health Facility Regulation positions for the process of surveying crisis stabilization units, short-term residential treatment facilities, and residential treatment facilities for licensure divided by the total number of crisis stabilization units, short term residential treatment facilities, and residential treatment facility beds times the number of beds in the facility applying for licensure.~~

~~(d)(g)~~ The license, ~~AHCA Form 3180-5001 Feb. 96, effective February, 1996, which is incorporated by reference,~~ shall be displayed in a conspicuous location inside the facility. For Levels III, IV, and V such license may be held available for inspection at the administrative offices of the facility or the organization which operates the facility.

(4) Residential Treatment Facility Licensure Classifications.

(a) Level IA. A Level IA facility provides a structured group treatment setting with 24 hours per day, seven ~~7~~ days per week supervision for residents who have major skill deficits in activities of daily living and independent living, and are in need of intensive staff supervision, support and assistance. Nursing services are provided on this level but are limited to medication administration, monitoring vital signs, first aid, and individual assistance with ambulation, bathing, dressing, eating and grooming.

1. No change.

2. Staffing Pattern. Level IA facilities must maintain a minimum of 1-10 staff to resident ratio with never less than two ~~2~~ staff on the premises at all times. There must be 24 hours per day, seven ~~7~~ days per week nursing

supervision, provided minimally by a licensed practical nurse under the direction of an on-call licensed medical practitioner ~~physician~~ or registered nurse.

(b) No change.

(c) Level II. A Level II facility provides a structured group treatment setting with 24 hour per day, seven 7 days per week supervision for five or more residents who range from those who have significant deficits in independent living skills and need extensive supervision, support and assistance to those who have achieved a limited capacity for independent living, but who require frequent supervision, support and assistance.

1. Resident Eligibility Criteria. A person who enters Level II facilities, in addition to meeting the eligibility criteria specified in Level I, must meet the following criteria:

a. through d. No change.

e. Is capable of self-preservation ~~in accordance with subparagraph 65E-4.016(17)(b)2., F.A.C.~~

2. No change.

(d) Level III. A Level III facility consists of collocated apartment units with an apartment or office for staff who provide on-site assistance 24 hours per day, seven 7 days per week. The facility may be comprised of a block of apartments within a large apartment complex. The residents served in this facility have a moderate capacity for independent living.

1. through 2. No change.

(e) Level IV. A Level IV facility provides a semi-independent, minimally structured group setting for four 4 or more residents who have attained most of the skills required for independent living and require minimal staff support.

1. No change.

2. Staffing Pattern. Level IV facilities may have administration and direct services staff on-premises less than 24 hours per day, 7 days per week, but in accordance with the following: on-premises supervision; however, on-call staff must be available at all times. Staff shall have a minimum of weekly on-premises contact with residents.

a. Direct services staff shall be on-premises each business day during the hours established by the governing board.

b. Administrative services staff shall be available to residents at all times, either on-premises or on-call (on-call staff are persons trained to manage the on-call needs of the persons served), and shall have a minimum of weekly on-premises contact with residents.

(f) Level V. A Level V facility provides a semi-independent, minimally structured apartment setting for one to four 1 to 4 residents who have attained adequate independent living skills and require minimal staff support. The apartments in this setting are owned or leased by the service provider and rented to residents. All residential units within a campus ~~apartments~~ on this level that are operated by a service provider, ~~regardless of location,~~ shall be considered the premises of the facility.

1. No change.

2. Staffing Pattern. Level V facilities may have administrative and direct services staff on-premises less than 24 hours per day, 7 days per week, but in accordance with the following: on-premises staff; however, on-call staff must be available at all times. Staff shall have a minimum of weekly on-premises contact with residents.

a. Direct services staff shall be on-premises each business day during the hours established by the governing board.

b. Administrative services staff shall be available to residents at all times, either on-premises or on-call (on-call staff are persons trained to manage the on-call needs of the persons served), and shall have a minimum of weekly on-premises contact with residents.

(5) Program Reviews, Evaluations and Consultations:

(a) ~~Representatives of the Alcohol, Drug Abuse and Mental Health Program Office; AHCA; and District Alcohol, Drug Abuse and Mental Health Program Office; shall provide consultation and conduct annual reviews and evaluations, or more as necessary, of all RTFs to determine compliance with rules and standards.~~

(b) ~~RTFs shall afford representatives of the Alcohol, Drug Abuse and Mental Health Program Office; AHCA; and District Alcohol, Drug Abuse and Mental Health Program Offices; access to the facility and the documentation necessary for conducting the reviews required to determine compliance with this rule and all other applicable rules and statutes.~~

~~(5)(6)~~ Organization and Administration.

(a) No change.

(b) Administrative Management.

1. Each RTF Level I, II, and III shall have an administrator ~~a manager~~ who is responsible for its daily operations.

2. RTFs shall comply with Chapter 394, F.S., and all other applicable Florida Statutes; all applicable sections of ~~C~~chapters 65E-4 and 65E-14, F.A.C.; and all other applicable rules of the Florida Administrative Code ~~Rules~~.

3. The administrator shall be responsible for the development and maintenance of all resident records. ~~RTFs shall develop and maintain all records required by Chapter 394, F.S., and applicable administrative rules.~~

(c) Personnel Policies, Records, and Practices.

1. through 2. No change.

3. Confidential personnel records shall be maintained for each employee of the residential program. These records shall contain ~~minimally~~ the following information:

a. through f. No change.

4. No change.

5. The facility's personnel recruitment and selection process shall ensure that there is no discrimination prohibited by state or federal law ~~because of race, creed, color, age, sex, national origin, or political affiliation.~~

6. The RTF shall make available to employees a written orientation to the program's operation, a copy of their current job description, a copy of this rule and a copy of patient's rights as established in s. 394.459, F.S. The receipt or availability of this information shall be documented in personnel records.

(d) Staff Composition, Organization and Coverage.

1. No change.

2. RTFs shall have direct or telephone access to at least one qualified professional as defined in Section 394.455(2), F.S., 24 hours a day, seven 7 days a week. If the professional is not a psychiatrist or psychiatric nurse, the facility shall also arrange for the regular, consultative and emergency services of a psychiatrist or psychiatric nurse licensed to practice in Florida. ~~a.~~ Back-up coverage shall be provided by staff trained to handle acute problems on a 24 hours per day, seven 7 days per week on-call basis.

~~b. Staffing patterns shall be no less than required by the level for which a facility is licensed.~~

3. No change.

~~(6)(7)~~ Resident Eligibility Criteria. facility are compatible with the facility's capability to serve them, or to further delineate the minimum skills or behaviors that a person needs to function in the facility's environment. The RTF shall maintain policies and procedures to screen individuals at risk for suicide attempt or threats, intentional self injury, homicide, and aggressive behavior. Policies and procedures shall include appropriate response to suicidal thoughts and behaviors, de-escalation practices, and maintaining the safety of residents from other residents.

~~(a) To be eligible for admission to a facility, a person shall meet the minimum criteria required by the level for which a facility is licensed.~~

~~(b) Additional eligibility criteria may be developed if such criteria are needed to insure that individuals admitted by the facility are compatible with the facility's capability to serve them, or to further delineate the minimum skills or behaviors that a person needs to function in the facility's environment.~~

~~(8) Continuity of Care.~~

~~(a) A CCMS case manager shall be assigned to each resident in a publicly funded RTF. In addition to the requirements specified in Rule 65E 4.014, and Chapter 65E 15, F.A.C., the RTF resident's case manager shall be responsible for the following:~~

~~1. Providing to RTF staff a copy of the individual service plan and any amendments to the plan;~~

~~2. Providing to RTF staff the assessment information needed to determine a resident's eligibility and the information needed to develop the individual treatment plan;~~

~~3. Providing to RTF staff ongoing information regarding the resident's progress in other settings and any other factor which may assist in the treatment or rehabilitation process;~~

~~4. Providing assistance to RTF staff in relating treatment goals to the environment in which the resident will live after the completion of treatment; and,~~

~~5. Residential placement as needed.~~

~~(b) RTF staff shall be responsible for the following activities:~~

- ~~1. Providing to the case manager a copy of the individual treatment plan and any amendments to the plan;~~
- ~~2. Reporting to the case manager the resident's progress in achieving treatment goals;~~
- ~~3. Attending case management conferences as needed;~~
- ~~4. Informing the case manager of any changes in the resident's status or condition that may affect other services the resident receives or may require the case manager's intervention; and,~~
- ~~5. Providing to the case manager a discharge, termination or transfer summary as appropriate.~~

~~(7)(9)~~ Intake. The intake criteria specified in this subsection shall apply to either a freestanding RTF or to one which first admits a resident if such RTF is part of a system of residential care and treatment. The following assessment and evaluation information shall be obtained or developed by the RTF in order to determine a resident's eligibility.

(a) Physical Assessment.

1. For each resident accepted into a facility from a state institution, a medical summary consisting ~~minimally~~ of a problem list, current status, significant lab reports and a copy of the most recent physical examination shall have preceded the resident to the program. The medical summary shall be placed in the resident's record.

2. If a physical examination has not been completed within 60 days prior to the ~~resident's~~ resident's admission to the RTF, the examination shall be initiated within 24 hours of the admission. A licensed medical practitioner ~~physician, licensed physician's assistant or licensed advanced registered nurse practitioner~~ shall complete the examination within 30 days. The physical examination medical report ~~physical examination~~ shall be placed in the resident's record.

3. Physical examination requirements ~~minimally~~ shall include:

- a. A medical history, including responses to medication, physical diseases and physical limitations; handicaps,
- b. through e. No change.

(b) No change.

~~(c) Mental status examination.~~

(d) is redesignated (c) No change.

~~(8)(10)~~ Admission.

(a) Each resident, within 24 hours of admission to a facility, shall be provided an orientation which includes ~~minimally~~ the following:

1. through 3. No change,
4. Explaining resident rights and grievance procedures, ~~except to residents who have transferred from another facility within the same system and are familiar with their rights and grievance procedures.~~

(b) The following documentation shall be placed in the resident's file:

1. A signed statement by the resident or guardian that the resident has received an orientation which meets the ~~minimum~~ required criteria;
2. through 7. No change.

~~(9)(11)~~ Assessment and Treatment Planning. RTF staff or the treatment team shall begin within 72 hours of admission and complete within 30 days of admission a functional assessment and individual treatment plan for each resident. Interventions which are needed to remedy serious deficits shall not be delayed until the assessment and individual treatment plan are completed.

(a) Assessment. The functional assessment shall determine the resident's ability to utilize the skills needed to function successfully in the RTF environment, and shall identify any obstacles to the resident's learning or using such skills. The assessment shall include determining any risk to themselves or other residents.

(b) No change.

~~(10)(12)~~ Treatment Services and Activities. RTFs shall provide services and activities which are adaptable to the individual needs of residents, promote personal growth and development, and prevent deterioration or loss of ability.

(a) through (d) No change.

(e) Physical Health Care Services.

1. through 2. No change.

3. Direct service staff shall report resident illnesses and significant physical dysfunctions in a timely manner to the resident's licensed medical practitioner ~~organization's physician~~ and note such in the resident's record.

(f) Medication. RTFs shall have written policies and procedures regarding the following aspects of medication management.

1. Storage.

a. through b. No change.

c. Medication may be centrally stored under the following conditions:

(I) No change.

(II) When medication is determined and documented by the licensed medical practitioner ~~physician~~ to be a safety risk ~~hazardous~~ if kept in the personal possession of the person for whom it was prescribed;

(III) No change.

(IV) When, because of physical arrangements and the conditions or habits of other persons in the program, the medications are determined by the administrator ~~facility manager~~, nurse or licensed medical practitioner ~~physician~~ to be a safety risk ~~hazard~~ to others.

d. through g. No change.

2. No change.

3. Medication Administration.

a. Professionals licensed to administer medications in accordance with Chapter 464, F.S., may administer medications in accordance with the licensed medical practitioner's ~~physician's~~ directions.

b. A licensed practical nurse may administer medications when under the direction of a registered nurse, a licensed medical practitioner ~~physician~~, or a licensed dentist who minimally must be accessible by telephone.

(g) Emergency Services. All direct service staff shall be provided training to handle emergency medical and mental health situations.

1. through 2. No change.

3. With the exception of half bed rails used under the prescription and supervision of a licensed medical practitioner ~~physician~~, RTFs shall not use restraints.

4. through 8. No change.

9. Emergency Reports and Records.

a. RTFs shall report to the appropriate district administrator and guardian any serious occurrence involving a resident outside the normal routine of the residential program such as abduction, abuse, assault, accident, contraband, illness requiring hospitalization, sexual abuse, suicide, death and homicide.

b. The reporting of all unusual incidents shall comply with departmental incident reporting procedures as prescribed in HRSR 215-6, "Incident Reporting and Client Risk Prevention," July 1, 1994, which is incorporated herein by reference.

(11) Critical Incident Reporting. RTFs shall develop policies and procedures for submitting critical incidents into the AHCA Incident Reporting System (AIRS system) within one business day of the occurrence of the incident. The link to access the AIRS system is: <https://apps.ahca.myflorida.com/SingleSignOnPortal>.

(12)(13) Discharge, Termination and Transfer.

(a) A discharge, termination or transfer summary shall be included in the resident's record. The summary shall address items (b)-(i):

(b) No change.

(c) Residents shall be actively engaged in the discharge planning process from the time of admission. Residents shall be assisted as needed in securing living arrangements or shelter and obtaining a timely aftercare appointment for needed services, including continuation of prescribed psychotropic medications prior to discharge.

(d) Residents shall be provided education and written information about his or her illness and psychotropic medications including other prescribed and over-the-counter medications, the common side-effects of any medications prescribed and any adverse clinically significant drug-to-drug interactions common between medication and other commonly available prescribed and over-the-counter medications.

(e) The individual shall be provided with information on any resources, services and community-based peer support services that are available in the community.

(f) Residents shall be referred to substance use treatment programs, trauma or abuse recovery focused programs, or other self-help groups, if indicated by assessments.

(g) Residents shall be provided with resource information on the Suicide & Crisis Lifeline and local Mobile

Response Team services.

(h) Residents shall be provided information about advance directives, including resources to assist with preparation and use.

(i) For residents who are diagnosed with an intellectual or developmental disability according to Chapter 393, F.S., the facility shall provide the parents or guardians with information on how to access appropriate resources from the Agency for Persons with Disabilities.

(13)(14) Resident Rights. The legal and civil rights of residents shall be safeguarded.

(a) through (b) No change.

(c) RTFs shall post the phone numbers for the Florida Abuse Hotline and the Disability Rights Florida abuse and neglect phone numbers and the District Human Rights Advocacy Committee (HRAC) phone number.

(d) No change.

(e) Each facility shall have written policies and procedures which allow resident communication and visits with family members and other visitors when such visits do not interfere with treatment activities. Such policies and procedures shall be provided to the resident and family and updated when changes occur.

1. If treatment interventions require restriction of communication or visits, as set forth in the program's policies and procedures, treatment staff shall evaluate these restrictions at least weekly for their effectiveness and continuing need. Such restrictions shall be subject to the provisions of Chapter 65E-5, F.A.C., documented and signed by the administrator facility manager, and placed in the resident's record.

2. No change.

(f) through (m) No change.

(14)(15) Resident Records.

(a) Policies and Procedures for Resident Records. RTFs A freestanding facility or an organization operating a facility shall have written policies and procedures regarding resident records that include the following:

1. through 4. No change.

5. Records may only be removed from the jurisdiction and safekeeping of the RTF facility or the organization operating a facility according to written policies and procedures as required by law; and-

6. No change.

(b) Maintenance of Records. Each RTF freestanding facility or organization operating a facility shall have a master filing system which includes a comprehensive record of each resident's involvement in every aspect of the program.

1. Level I, II and III facilities operating under an organization that maintains a master filing system not on the RTF premises shall, in lieu of the master resident record, maintain for each resident a record that contains minimally the following information:

a. through g. No change.

2. RTFs ~~or organizations that operate~~ RTFs shall adopt policies regarding the storage, disposal or destruction of resident records that protect against disclosure of confidential information in compliance with Chapters 119 and 267, F.S. Resident records shall be maintained minimally for seven 7 years after the date of the last entry.

3. through 4. No change.

(15)(16) Program Evaluation.

(a) Quality Assurance.

1. No change.

2. Each quarter a peer review and a utilization review shall be conducted which ensure ~~at a minimum~~ that:

a. through i. No change.

j. All critical ~~major~~ incident reports are reviewed;:-

k. through n. No change.

(b) No change.

(c) All program evaluation and review information shall be made available to the Department ~~department~~, upon request, ~~within the limits of confidentiality pursuant to Section 394.459(9), F.S.~~

(16)(17) Facility Standards.

(a) Building Construction Requirements.

1. The construction and renovation of a facility shall comply with the building codes in Rule 61G20-1.001,

F.A.C., as adopted by the Florida Building Commission provisions of Chapter 553, F.S., Building Construction Standards.

2. through 4. No change.

5. The water supply must be adequate, of safe and sanitary quality and from an approved source in accordance with Rule 64E-12.003, Chapters 64E-4 and 62-550, F.A.C., Water Supply. Drinking Water Standards, Monitoring, and Reporting.

6. No change.

~~7. Facilities and additions shall be constructed to allow full compliance with the provisions of paragraph 65E-4.016(17)(b), F.A.C.~~

(b) Health and Safety.

1. Disaster Preparedness.

a. The facility shall have or operate under a safety committee with a safety director or officer who is familiar with the applicable fire safety standards contained in Chapter 69A-44, F.A.C., as adopted by the State Fire Marshal ~~local, state, federal and National Fire Protection Association safety standards.~~ The committee's functions may be performed by an already existing committee or governing board subcommittee with related interests and responsibilities.

b. No change.

c. RTFs are required to use the AHCA's online Health Facility Reporting System (HFRS) to report its emergency status, planning or operations.

2. Fire Safety.

a. RTFs shall comply with all applicable fire codes contained in Chapter 69A-44, F.A.C., as adopted by the State Fire Marshal ~~federal, state and local fire safety standards.~~

(I) For facility Level IB, which may have no more than three residents incapable of self-preservation, and for facility Levels II, III, IV, and V, which may have no residents incapable of self-preservation, each resident record shall have a signed statement by a licensed medical practitioner ~~physician~~ or licensed psychologist regarding the resident's capability of self-preservation.

(II) No change.

b. through h. No change.

3. No change.

4. Health and Sanitation.

a. through b. No change.

c. Garbage, ~~Trash and Rubbish~~ Disposal.

(I) All garbage, ~~trash, and rubbish~~ from residential areas shall be collected daily and taken to storage facilities. Garbage shall be removed from storage facilities frequently enough to prevent a potential health hazard or at least twice per week. Wet garbage shall be collected and stored in impermeable, leakproof, fly-tight containers pending disposal. All containers, storage areas and surrounding premises shall be kept clean and free of vermin.

(II) If public or contract garbage collection service is available, the facility shall subscribe to these services unless the volume makes on site disposal feasible. If garbage ~~and trash~~ are disposed of on premises, the method of disposal shall not create sanitary nuisance conditions.

d. through f. No change.

(c) Food Service.

1. No change.

2. Third Party Food Service. When food service is provided by a third party, the provider shall meet all conditions stated in this section, and shall comply with Chapter 64E-11, F.A.C. There shall be a formal contract between the facility and provider containing assurances that the provider will meet all food service and dietary standards imposed by this rule with an exception of the level IV and V RTF'S. Sanitation reports and food service establishment inspection reports shall be on file in the facility.

3. No change.

4. Diet and Nutrition. The facility shall have policies and procedures to assure proper nutritional care of its residents, whether the food is prepared by residents, staff or a third party.

a. For residents who need therapeutic diet services, a licensed medical practitioner's ~~physician's~~ order for each

diet and the meal pattern, including types and amounts of food to be served, shall be on file. Therapeutic diets shall be prepared and served as ordered by the licensed medical practitioner ~~physician~~. Staff shall ensure ~~insure~~ that residents on special diets follow the licensed medical practitioner's ~~physician's~~ orders.

b. through f. No change.

5. through 6. No change.

(d) through (e) No change.

Rulemaking Authority 394.879(1) FS. Law Implemented 394.67, 394.875, 394.876, 394.877, ~~394.878~~, 394.879, 394.90, 394.902, 394.903 FS. History—New 2-27-86, Amended 7-29-96, Formerly 10E-4.016, Amended 12-20-98. Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Heather Allman and William Hardin

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2024

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: January 9, 2025