

### **65E-5.260 Transportation**

(1) Each law enforcement officer who takes a person into custody upon the entry of recommended form CF MH 3001, Feb. 05, “Ex Parte Order for Involuntary Examination,” which is incorporated by reference and may be obtained pursuant to Rule 65E 5.120, F.A.C., of this rule chapter, or other form provided by the court, or the execution of mandatory form CF MH 3052b, June 2016, “Certificate of Professional Initiating Involuntary Examination,” <http://www.flrules.org/Gateway/reference.asp?No=Ref-07005>, which is hereby incorporated by reference and may be obtained pursuant to Rule 65E 5.120, F.A.C., of this rule chapter, or completion of mandatory form CF MH 3052a, June 2016, “Report of a Law Enforcement Officer Initiating Involuntary Examination,” <http://www.flrules.org/Gateway/reference.asp?No=Ref-07004>, which is incorporated by reference and may be obtained pursuant to Rule 65E 5.120, F.A.C., of this rule chapter, shall ensure that such forms accompany the person to the receiving facility for inclusion in the person’s clinical record.

(2) The designated law enforcement agency shall transport the person to the nearest receiving facility as required by statute, documenting this transport on mandatory form CF MH 3100, Feb. 05, “Transportation to Receiving Facility,” which is hereby incorporated by reference and may be obtained pursuant to Rule 65E 5.120, F.A.C., of this rule chapter. The designated law enforcement agency may decline to transport the person to a receiving facility only if the provisions of Section 394.462(1), F.S., apply. When the designated law enforcement agency and the medical transport company agree that the continued presence of law enforcement personnel is not necessary for the safety of the person or others. Part II of mandatory form CF MH 3100, “Transportation to Receiving Facility,” as referenced in subsection 65E 5.260(2), F.A.C., reflecting the agreement between law enforcement and the transport service shall accompany the person to the receiving facility. The completed form shall be retained in the person’s clinical record.

Rulemaking Authority 394.457(5) FS. Law Implemented 394.462, 394.463 FS. History—New 11-29-98, Amended 4-4-05, 1-8-07, 7-5-16. Repealed.

### **65E-5.2601 Transportation Exception Plan.**

(1) In determining whether to approve a proposal for an exception or exceptions to the transportation

requirements of Section 394.462(3), F.S., the following shall be considered by the department:

- (a) The specific provision from which an exception is requested;
- (b) Evidence presented by the department's district or region of community need and support for the request;
- (c) Whether the proposal is presented in a format that is clear, simple, and can be readily implemented by all parties and the public;
- (d) How the proposed plan will improve services to the public and persons needing Baker Act services; and,
- (e) Whether the geographic boundaries identified in the proposal are distinct and unambiguous.

(2) The proposal must include provisions which address:

- (a) Accountability for delays or confusion when transportation fails to respond appropriately;
- (b) How disputes which may arise over implementation of the plan will be resolved;
- (c) Identification of the public official whose position is responsible for the continuing oversight and monitoring of the service in compliance with the terms of the approved proposal;
- (d) The plan for periodically monitoring compliance with the proposal, public satisfaction with the service provided, and assurance of rights of each person served by the facility;
- (e) The method complaints and grievances are to be received and resolved; and,
- (f) Community support and involvement including a description of the participation of designated public and private receiving facilities, law enforcement, transportation officials, consumers, families, and advocacy groups.

(3) The approval by the governing boards of any affected counties, shall be certified in writing by the district or region's mental health and substance abuse program supervisor, prior to the plan's submission to the Secretary of the Department.

Rulemaking Authority 394.457(5) FS. Law Implemented 394.462(3) FS. History—New 11-29-98, Amended 4-4-05. Repealed.

#### **65E-5.350 Eligibility Criteria and Procedures for Designation of Baker Act Receiving Facilities.**

(1) General Provisions. Pursuant to Section ~~Sections~~ 394.455(26) and 394.461, F.S., only facilities designated by the Department are permitted to involuntarily hold and treat individuals ~~persons~~ for a mental illness, substance use disorder, or co-occurring disorders, except as required by 42 USC 1395 for all hospitals providing emergency

services for access, assessment, stabilization, and transfer.

(2) Designation as a private receiving or treatment facility shall not entitle the facility to receive any funding appropriated for the Baker Act. Such funding is based solely on a contract between the ~~Department~~ or a managing entity and the facility, specifically for this purpose.

(3) Two types of licensed civil facilities are authorized to provide acute psychiatric treatment and are eligible to apply for designation as receiving facilities. Since designation to receive ~~individuals persons~~ under Chapter 394, Part I, F.S., does not distinguish between the capacity to serve adults and minors, all designated facilities are required to provide emergency services, consistent with their facility's licensure to ~~individuals persons~~ regardless of age, except as provided for under subsection (4) of this rule.

(a) No change.

(b) Facilities licensed under the provisions of Chapter 394, Part IV, F.S., shall only be designated as public receiving facilities and ~~may~~ include only crisis stabilization units (CSU) and children's crisis stabilization units (CCSU). Short-term residential treatment facilities (SRT) are not free-standing emergency care units and ~~shall may~~ only be designated collectively with a CSU or CCSU as part of a public receiving facility.

(4) Specific Circumstances for Designation. ~~Pursuant to the exceptions authorized under Section 394.462(3), F.S., for transportation purposes, and at the discretion of the department's district or regional office with the approval of the mental health and substance abuse program supervisor, Aa facility's facility~~ designation may be modified or restricted to specify services for only just adults or for only just children, consistent with its license and the Behavioral Health Receiving System (BHRS) Plan for the county where the facility is located. ~~subject to inclusion and subsequent approval by required parties as part of an approved transportation exemption plan.~~

(5) Application and Supporting Documentation for Designation as a Receiving Facility. In order to apply for designation as a receiving facility, an applicant must complete and submit mandatory form CF-MH 3125, (insert date) Feb. 05, "Application for Designation as a Receiving Facility," which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX> and may be obtained in accordance with Rule 65E 5.120, F.A.C., of this rule chapter. In lieu of a standard application, the applicant may complete an on-line process through the Department's statewide electronic system specific to designation and licensure, which can be accessed at <http://www.myflfamilies.com/service-programs/substance-abuse/licensure-regulation>. Required application information includes:

(a) A copy of the facility's license issued pursuant to Chapter 394 or 395, F.S., ~~evidencing its eligibility to apply for designation~~ which shall be submitted to the Substance Abuse and Mental Health (SAMH) regional office within 30 business days of receipt to maintain designation;

(b) through (c) No change.

(d) Description of proposed psychiatric services including any distinct programs to be provided to each of the following consumer age groups, and the projected numbers of ~~individuals persons~~ to be served in each of the following ~~groups~~ group:

1. Minors below 10 years of age;
2. Minors between the ages of 10 to 17 years;
3. Adults;
4. Persons 60 or more years of age; and;
5. Other specific populations.

(e) The corresponding street address for each reception and treatment location for the above services must be provided. Designation is limited to only the locations specified in the application and approved by the ~~Department~~; and;

(f) No change.

1. The information may address the public's need for specific services for minors, aged, blind or hearing-impaired ~~individuals persons~~. Evidence of such need may include: Certificate of Need data and other information published by the Agency for Health Care Administration (AHCA), the organization's or community's utilization of available or licensed bed capacity, geographical accessibility information, input from local governmental agencies, or information on the specific needs of ~~individuals persons~~ if the particular specialty services offered are accredited or certified by a nationally recognized body for that specific population or service.

2. The applicant shall describe local need and accommodation of that need for indigent and low income individuals and families receiving the facility's services. The applicant shall describe how it shall protect economically vulnerable ~~individuals persons~~ received for involuntary examination or treatment from exorbitant charges and billings for services. A statement comparing representative facility charges and billings for individuals who are uninsured or without a third party payer who are held under the provisions of the Baker Act to otherwise similar representative charges and billings for group health care members and insurers shall be included.

3. The applicant shall describe local need and accommodation of that need for indigent and low income individuals and families being discharged from the facility in need of continuing psychotropic medications. The applicant shall describe how it shall directly provide; or otherwise assist the individual person in ensuring continuity ~~and of~~ availability of necessary psychotropic medications until a scheduled aftercare psychotropic medication appointment.

(g) Documentation of key facility protocols to assure all involved practitioners and staff are knowledgeable of, and implement, an individual's person's legal rights, key psychiatric care, records standards, complaint reporting, investigation and reviews to maintain a consistently high level of compliance with applicable Baker Act laws, ethical principles, and rights protections;

(h) Description of how the facility's physical structure, staffing, and policies offers frequent, if not daily, opportunity for individuals persons to have exercise, fresh air, and sunshine, except as individually restricted and documented in the individual's persons clinical record and within the physical limitations of the facility;

(i) Description of how the facility's discharge planning policies provide for continuity of psychotropic medication availability until post-discharge follow-up services are scheduled; and;

(j) For general hospitals, a description of the means utilized to create or approximate a distinct psychiatric emergency reception and triage area that minimizes the individual's exposure to undue and exacerbating environmental stresses while awaiting or receiving services.

~~(6) Processing an Application for Designation. Application Process for Designation. All facilities desiring to obtain, or to retain, designation as a receiving facility must complete and submit mandatory form CF MH 3125, "Application for Designation as a Receiving Facility," as referenced in subsection 65E-5.350(5), F.A.C., for departmental review. All receiving facility designations shall be subject to Departmental review and authorization in accordance with the provisions of Chapter 394, Part I, F.S., and this rule chapter after receipt of the application.~~

(a) The ~~Department's district or~~ regional office is responsible for receipt of the application, reviewing the application, requesting additional information as needed, verifying essential information, and forwarding the information along with the recommendation of the regional substance abuse and mental health director and substance abuse program supervisor to the Secretary or the Secretary's designee for final action. Applications received that are incomplete will be returned by certified mail with a letter informing the applicant of missing items. The regional office district or region will seek and review pertinent information from any source, such as:

1. Accreditation status and submission of the latest survey report of any applicable accrediting bodies;
2. Relevant history of compliance with the Baker Act and other related ~~protection~~ laws protecting individuals ~~persons~~ served by mental health facilities;
3. ~~Agency for Health Care Administration (AHCA)~~ licensure reports and complaint investigation findings against the facility or professionals associated with the facility;
4. Actions, findings, or reports of the Florida Local Advocacy Council, Disability Rights Florida, and other ~~district or~~ regional consumer complaint offices;
5. Florida Abuse Hotline receipt, or lack or receipt, of complaints and actions;
6. Actions initiated by any state enforcement authority, including the Florida Attorney General's Office, the Florida Department of Law Enforcement, the Florida Department of Insurance, and statewide or local State's Attorneys Offices; and;
7. No change.

(b) The regional office ~~district or region~~, upon receipt of a properly completed application, shall schedule and advertise a public meeting for purposes of obtaining public input and information on the initial designation of the applicant.

(c) No change.

(d) The regional office shall submit its ~~submission of the district or regions~~ recommendation to the Secretary or the Secretary's designee. The recommendation shall be based on an analysis of all pertinent information identified under 65E-5.350(6)(a), F.A.C., that was reviewed to process the application for designation must include a listing of the key information sources and pertinent factors relied upon in making the recommendation and must include a summary of the comments and information received at the public meeting if one was held.

(e) Within 60 days of receiving the recommendation from the regional substance abuse and mental health director ~~district or region~~, the Secretary, or the Secretary's designee, will review the region's analysis, public meeting summary, and ~~district or region~~ recommendation, and ~~supporting documentation and~~ will issue a final ~~Departmental~~ action with regard to the application which may be approved, or denied, or ~~returned to the district or region for additional information or processing~~.

(f) The designation shall be for 3 years.

(7) Application ~~Re-Applications~~ for Renewal of Designation.

(a) ~~An application for renewal of designation~~ ~~A re-application~~ must be submitted for re-designation every 3 calendar years, after approval of initial applications or 90 calendar days in advance of the relocation of a facility to a new address. The designation is valid only for the address to which it was issued.

(b) ~~The A-renewal application for renewal of designation~~ shall be forwarded to the ~~D~~department at least 90 calendar days prior to the expiration of its existing designation.

(c) ~~An application for renewal of designation~~ ~~A re-application~~ must be submitted by a facility upon a change of controlling ownership of the facility or of the contractual management entity for the psychiatric service. Failure to submit notification to the ~~D~~department of changes of controlling ownership or a change in the management entity within 30 calendar days after the change will terminate the facility's designation 60 calendar days after the effective date of the action changing the control of ownership or management.

(d) Any change in the name of a facility; that remains under the same ownership and management; must be reported in writing to the ~~D~~department's ~~district or~~ regional office within 30 calendar days after the effective date of the change. Upon receipt of the notification, the ~~D~~department will issue a letter confirming receipt of the notification and extending designation until a replacement certificate of designation showing the correct facility name is received by the facility. Failure to provide such notification to the ~~district or~~ region within 30 calendar days of the change will result in the withdrawal of the designation upon the expiration of the 60th calendar day following the facility name change.

(8) Certificate of Designation.

(a) Upon approval by the Secretary or ~~the Secretary's~~ his or her designee, the ~~D~~department shall issue a ~~C~~ertificate of ~~D~~esignation which shall include the following information on ~~its~~ ~~the~~ face of the ~~Certificate of Designation~~:

1. Effective commencement date and expiration date;;

2. Name of the owner and licensee as stated on the facility license issued by ~~AHCA~~ ~~the Agency for Health Care Administration~~; and;

3. No change.

(b) No change.

(9) Facilities shall not begin operations until designated in accordance with this rule chapter and licensed by AHCA in accordance with Sections 394 or 395, F.S.

(10) Designation of Veterans Affairs Medical Centers and Health Care Systems (VA facilities) as Baker Act Receiving Facilities.

(a) The policies and procedures for VA facilities are governed by federal law and regulations, not Chapter 394, F.S.

(b) Upon a written request for designation from a VA facility that is owned and operated by the United States Department of Veterans Affairs and located in Florida, the Department's Substance Abuse and Mental Health Director may designate the VA facility as a Baker Act Receiving Facility. The Department will respond to the request within 60 calendar days of receiving the request.

(c) The VA facility's designation shall be restricted to services for active or veteran members of the United States armed services.

(d) Once the VA facility receives the designation, it shall remain in effect while the facility is owned and operated by the United States Department of Veterans Affairs, and until the VA facility requests in writing that the Department remove the designation, or the Department withdraws designation in accordance with Rule 65E-5.353, F.A.C.

Rulemaking Authority ~~394.461(6)~~ 394.461(5) FS. Law Implemented ~~394, Part I, IV, 394.455(26)~~; 394.461, 394.461(4), 394.462(3), 395, 415, 458, 817 FS. History—New 11-29-98, Amended 4-4-05. Amended \_\_\_\_\_

**65E-5.351 Minimum Standards for Designated Receiving Facilities.**

~~(1) Any facility designated as a receiving facility failing to comply with this chapter may have such designation suspended or withdrawn.~~

~~(2) Each receiving facility shall have policies and procedures that prescribe, monitor and enforce all requirements specified in Chapter 65E-5, F.A.C.~~

~~(3) Each receiving facility shall assure that its reception, screening, and inpatient services are fully operational 24 hours per day, 7 days per week.~~

~~(4) Each receiving facility shall have a compliance program that monitors facility and professional compliance with Chapter 394, Part I, F.S., and this chapter. Every such program shall specifically monitor the adequacy of and the timeframes involved in the facility procedures utilized to expedite obtaining informed consent for treatment. This program may be integrated with other activities.~~



~~(5) A public receiving facility that is affiliated with a publicly funded community mental health center shall ensure the centralized provision and coordination of acute care services for eligible individuals with an acute mental illness.~~

Rulemaking Authority 394.461(5) FS. Law Implemented 394.461(5) FS. History—New 11-29-98. Repealed.

**65E-5.352 Procedures for Complaints and Investigations of Designated in Receiving Facilities.**

Complaints with regard to the provisions of this rule chapter shall be filed with the regional director of the substance abuse and mental health (SAMH) office, district or region mental health and substance abuse program supervisor, or the regional director's designee, of the district or region in which the violation is alleged to have occurred. The regional director of the SAMH office district or region mental health and substance abuse program supervisor shall appoint one or more employees to determine if an investigation is warranted. Investigations of complaints shall include a review of the records of individuals in treatment who are the subject of the complaint or investigation. If warranted, the investigation may include the assistance of other agencies having jurisdiction over the facility.

(1) If the regional director of the SAMH office district or region mental health and substance abuse program supervisor determines that a violation of this rule chapter has occurred, and the violation does not present a threat to the health, safety, or welfare of an individual or the public, the Department will:

(a) Provide a notice of noncompliance to the provider as the first enforcement action taken; and

(b) Require a corrective action plan within 10 business days from receipt of the notice of noncompliance. The severity of the noncompliance may affect the period of time allowed for correction, but in no event shall the corrective action period exceed 90 calendar days.

~~(1) Corrective action shall be required and a reasonable time in which to correct the violation shall be accorded to the facility; or~~

~~(2) If the corrective action is not sufficient, or the violation presents a threat to the health, safety, or welfare of an individual or the public, the regional director of the SAMH office district or region mental health and substance abuse program supervisor determines that the violation warrants suspension or removal of designation, such action shall be considered~~ will consider action pursuant to Rule 65E-5.353, F.A.C.

Rulemaking Authority 394.461(6) ~~394.461(5)~~ FS. Law Implemented 394.461(6) ~~394.461(5)~~ FS. History—New 11-29-98, Amended 4-4-05. Amended \_\_\_\_\_

**65E-5.353 Criteria and Procedures for Suspension or Withdrawal of Designation of Receiving Facilities.**

(1) The regional Substance Abuse and Mental Health (SAMH) district or regional offices of the Department shall continuously collect and monitor information relative to complaints or allegations against designated receiving facilities from sources such as individuals, local advocacy or self-help groups, local organizations including law enforcement, ~~and~~ the Agency for Health Care Administration (AHCA), and the Florida Local Advocacy Council. When a regional director of the SAMH office district or region mental health and substance abuse program supervisor recommends to the Secretary, or the Secretary's designee, withdrawal or suspension of designation, at least the following information must be submitted with the recommendation:

(a) A description of violations such as extent of violations of Chapter 394, F.S., and this rule chapter. This description shall include, and the extent and seriousness of known injuries or injury including the severity and number of violations, such as the severity and chronic violation of individual rights; and any pattern of inadequate supervision, injury, or harm to individuals; and,

(b) Mitigating circumstances including the responsiveness and extent of any actions taken by the facility to remediate, compensate, or correct the situation, as well as the facility's recent history of charitable public service to individuals persons with behavioral health disorders psychiatric disabilities in the community, and compliance and responsiveness to any prior violations or complaints.

(2) Suspension of Designation. When the regional SAMH office district or region determines that a designated receiving facility it is more likely than not that a facility, or its related entities, has failed to consistently meet one or more of the standards for designation or maintenance of designation under this rule chapter, it may suspend designation pending corrective action plan implementation. In determining whether to suspend designation pending corrective action plan implementation, the Department shall consider 1) whether the violation affects the health, safety, and welfare of individuals in care; 2) whether there is alternative access to services in the geographic region; and 3) any past history of substantiated complaints and regulatory violations, and any actions initiated by federal or state law enforcement. During the suspension period, no individuals persons on involuntary status may be admitted to the facility. No re-application for designation as a receiving facility is required for reinstatement of designation.

(3) Withdrawal of Designation.

(a) Designation may be withdrawn upon approval of the Secretary, or the Secretary's designee, when the SAMH regional office district or region determines that any pattern of violations, or combination of violations, of

Chapter 394, F.S., this rule chapter, ~~or and rule c~~Chapter 65E-12, F.A.C., exists, such as: deficient admission, transfer, discharge, or care practices; deficient observation; or documentation of rights abuses, ~~deficient discharge practices, deceptive or misleading practices in marketing, admission recruitment, or referral practices; and~~ fraudulent clinical or billing practices; or patient brokering is evident. In determining whether the Department will withdraw designation from a facility, the Department shall also consider, in addition to the factors considered for a suspension of designation delineated in subsection (2), whether the violation involved the alleged ~~Examples of such offenses include violations by the facility, or parties acting on behalf of or in concert with the facility, or acting under its supervision, use of deceptive or misleading practices in admission or referral, or having engaged in~~ deceptive, fraudulent, exploitative, abusive, or neglect type violations of Florida law, including Chapter 394 and 415, F.S., Sections 817.505 and 458.331, F.S.

(b) Upon re-application after withdrawal of designation, the ~~D~~department must have clear and convincing evidence that the problems with the facility, or its practitioners, leading to withdrawal of designation have been corrected and will not reoccur. This may include required internal and external monitoring to document continued satisfactory performance.

Rulemaking Authority ~~394.461(6) 394.461(5) FS. Law Implemented 394, 394.455(26), 394.461, 395, 415, 458.331, 817.505 FS. History—New 11-29-98, Amended 4-4-05. Amended~~

#### **65E-5.354 Minimum Standards for Designated Receiving and Treatment Facilities.**

(1) Any designated receiving facility failing to comply with this rule chapter may have such designation suspended or withdrawn in accordance with 65E-5.353, F.A.C.

(2) Each designated receiving facility shall have policies and procedures that prescribe, monitor, and enforce all requirements specified in this rule chapter.

(3) Each designated receiving facility shall assure that its reception, screening, and inpatient treatment services are fully operational 24-hours-per-day, 7-days-per-week.

(4) Each designated receiving facility shall have a compliance program that monitors facility and professional compliance with Chapter 394, Part I, F.S., and this rule chapter. Every such program shall specifically monitor the adequacy of and the timeframes involved in the facility procedures utilized to obtain informed consent for treatment. This program may be integrated with other compliance activities.

(5) A designated public receiving facility that is affiliated with a publicly-funded community mental health

center shall ensure the centralized provision and coordination of acute care services for eligible individuals with a serious mental illness, in accordance with the behavioral health receiving system plan.

(6) In order to protect the health and safety of individuals treated in or served by a designated receiving facility or any service provider, any delegation of an administrator's authority pursuant to Chapter 394, F.S., or this rule chapter shall be documented in writing prior to exercising the delegated authority. Routine delegations of authority shall be incorporated in the facility's written policies.

(7) Management and personnel of the treatment environment shall use positive incentives in assisting individuals to acquire and maintain socially positive behaviors as determined by the individual's age and developmental level.

(8) A schedule of daily activities listing the times for specific events shall be posted in a common area and provided to all individuals.

(9) Interventions, such as the loss of personal freedoms, loss of earned privileges, or denial of activities otherwise available to other individuals, shall be minimized and utilized only after implementation of positive incentives for the individuals involved is not successful. These efforts shall be documented in the clinical record.

(10) Verbal or written information provided to individuals shall be accessible in the language and terminology the individual understands.

(11) Proper functioning and maintenance of the facility structure, finishes, fixtures, furnishings, and equipment shall be ensured. Necessary medical equipment or devices shall be readily available, including restraint equipment, that is suitable to the safety and medical needs of the individuals being served.

(12) In order to ensure the protection of the health, safety, and welfare of individuals treated in designated receiving and treatment facilities, as required by Section 394.457(5)(b), F.S., the following is required:

(a) Each designated receiving and treatment facility shall develop policies and procedures for abuse reporting and shall conduct training which shall be documented in each employee's personnel record or in a training log.

(b) A personnel training plan that prescribes and assures that direct care staff, consistent with their assigned duties, shall receive and complete, before providing direct care or assessment services, 12 hours of basic orientation training, documented in the employee's personnel record, in the following:

1. Rights of individuals served by the facility and facility procedures required under Chapter 394, Part I, F.S., and this rule chapter;

2. Confidentiality laws, including mental health, substance use, HIV and AIDS;

3. Incident reporting according to 65E-5.354(17), F.A.C.;

4. Restrictions on the use of seclusion and restraints, consistent with unit policies and procedures, and this rule chapter;

5. Abuse reporting required by Chapter 415, F.S. and Chapter 39, F.S.;

6. Assessment for past or current sexual, psychological, and physical abuse and trauma;

7. Cross-training for identification of, and working with, individuals recently engaged in substance use;

8. Clinical risk and competency assessment for staff with the proper credentials and education;

9. Universal or standard practices for infection control;

10. Crisis prevention, crisis intervention, and stabilization services;

11. Descriptions, symptoms, and treatment of behavioral health disorders based on the most current nationally accepted diagnostic classification system or guidance; and

12. Honoring preferences contained in advance directives prepared by individuals served by the facility.

(13) During their first year of employment, all employees shall undergo no less than the 12 hours of orientation, as described in paragraph (12)(b) above. The 12 hours of orientation for direct services staff who conduct emergency screenings shall include the components of training as specified in 65E-12.105, F.A.C.

(14) Annually thereafter, direct services staff shall receive 12 hours continuing training in the skills and knowledge employed in performing their respective responsibilities.

(15) Procedures shall require that individuals who deliver the staff training curriculum for behavioral health services shall be qualified by their experience and training in the content presented.

(16) A mandatory training plan shall be developed and implemented for employees, emergency room personnel, and physicians, relative to their positions and responsibilities, and any local coordination agreements or protocols.

(17) State Mental Health Treatment Facilities shall report critical incidents into the Department's statewide designated electronic system in accordance with CFOP 155-25.

(18) Designated receiving facilities shall develop policies and procedures for submitting the following critical incidents into the Department's statewide designated electronic system specific to critical incident reporting within one business day of the incident occurring.

(a) Adult Death. An individual 18 years old or older whose life terminates;

1. While receiving services; or

2. When it is known that an adult died within 30 days of discharge from a program.

3. The final classification of an adult's death is determined by the medical examiner. In the interim, the manner of death shall be reported as one of the following:

a. Accident. A death due to the unintended actions of one's self or another.

b. Homicide. A death due to the deliberate actions of another.

c. Natural Expected. A death that occurs because of, or from complications of, a diagnosed illness for which the prognosis is terminal.

d. Natural Unexpected. A sudden death that was not anticipated and is attributed to an underlying disease either known or unknown prior to the death.

e. Suicide. The intentional and voluntary taking of one's own life.

f. Undetermined. The manner of death has not yet been determined.

g. Unknown. The manner of death was not identified or made known.

(b) Adolescent Arrest. The arrest of an adolescent.

(c) Adolescent Death. An individual who is less than 18 years of age whose life terminates:

1. While receiving services; or

2. When it is known that an adolescent died within 30 days of discharge from a program;

3. The final classification of an adolescent's death is determined by the medical examiner. In the interim, the manner of death will be reported as one of the following:

a. Accident. A death due to the unintended actions of one's self or another.

b. Homicide. A death due to the deliberate actions of another.

c. Natural Expected. A death that occurs because of, or from complications of, a diagnosed illness for which the prognosis is terminal.

d. Natural Unexpected. A sudden death that was not anticipated and is attributed to an underlying disease either known or unknown prior to the death.

e. Suicide. The intentional and voluntary taking of one's own life.

f. Undetermined. The manner of death has not yet been determined.

g. Unknown. The manner of death was not identified or made known.

(d) Adolescent-on-Adolescent Sexual Abuse. Any sexual behavior between adolescents less than 18 years of age which occurs without consent, without equality, or because of coercion.

(e) Elopement. An unauthorized absence of any individual.

(f) Employee Arrest. The arrest of an employee for a civil or criminal offense.

(g) Employee Misconduct. Work-related conduct or activity of an employee that results in potential liability for the Department; death or harm to an individual who is receiving services; abuse, neglect, or exploitation of an individual receiving services; or which results in a violation of statute, rule, regulation, or policy. This includes falsification of records; failure to report suspected abuse or neglect; contract mismanagement; or improper commitment or expenditure of state funds.

(h) Missing Adolescent. When the whereabouts of an adolescent in the custody of the Department are unknown and attempts to locate the adolescent have been unsuccessful.

(i) Security Incident – Unintentional. An unintentional action or event that results in compromised data confidentiality; a danger to the physical safety of personnel, property, or technology resources; misuse of state property or technology resources; or denial of use of property or technology resources. This excludes instances of compromised information of individuals in treatment.

(j) Sexual Abuse / Sexual Battery. Any unsolicited or non-consensual sexual activity by one individual receiving services to another individual receiving services; or sexual activity by a service provider employee or other person to an individual who is receiving services, regardless of the consent of the individual receiving services. This includes sexual battery, as defined in Section 794.011, F.S.

(k) Significant Injury to Individuals in Treatment. Any severe bodily trauma received by an individual in a program that requires immediate medical or surgical evaluation or treatment in a hospital emergency department to address and prevent permanent damage or loss of life.

(l) Significant Injury to Staff. Any serious bodily trauma received by a staff member as result of a work-related activity that requires immediate medical or surgical evaluation or treatment in a hospital emergency department to prevent permanent damage or loss of life.

(m) Suicide Attempt. A potentially lethal act which reflects an attempt by an individual to cause his or her own death as determined by a licensed mental health professional or other licensed healthcare professional.

(n) Other. Any major event not previously identified as a reportable critical incident but has, or is likely to have, a significant impact on individuals receiving services or on the Department, such as:

1. Human acts that jeopardize the health, safety, or welfare of individuals receiving services, such as kidnapping, riot, or hostage situation;

2. Bomb or biological/chemical threat of harm to personnel or property involving an explosive device or biological/chemical agent received in person, by telephone, in writing, via mail, electronically, or otherwise;

3. Theft, vandalism, damage, fire, sabotage, or destruction of state or private property of significant value or importance;

4. Death of an employee or visitor while on the grounds of the facility;

5. Significant injury of a visitor while on the grounds of the facility that requires immediate medical or surgical evaluation or treatment in a hospital emergency department to prevent permanent damage or loss of life; or

6. Events regarding individuals receiving services or providers that have led to or may lead to media reports.

Rulemaking Authority 394.457(6), 394.461(6), 394.46715 FS. Law Implemented 394.457, 394.461 FS.

History–New

#### **65E-5.356 Behavioral Health Receiving System.**

(1) General Provisions.

(a) A Florida county or group of counties shall plan a Behavioral Health Receiving System (BHRS) with the regional Managing Entity, in accordance with the provisions of Chapter 394, Part I, F.S., and Section 394.4573, F.S.

(b) The planning process shall include the following local stakeholders:

1. Individuals with behavioral health needs;

2. Family members of individuals with behavioral health needs;

3. Service providers; and

4. Law enforcement agencies.

(2) Submission Process.

(a) The BHRS Plan or Plan Renewal must be submitted by July 1<sup>st</sup>, three years after the initial plan was submitted, and at least once every three years thereafter to the regional Substance Abuse and Mental Health



(SAMH) Director responsible for the county where facilities within the BHRS are located.

(b) If facilities are located in multiple counties, a lead county must be selected, and the Plan must be submitted to the regional SAMH Director of the lead county.

(c) The Department's regional SAMH Director will review the BHRS Plan or the Request for Renewal to ensure that the minimum standards for a BHRS Plan are met, in accordance with Rule 65E-5.357, F.A.C. If the minimum standards are not met in the BHRS Plan, the regional SAMH Director will recommend revisions to the Plan. The regional SAMH Director will submit the Plan or Renewal to the Assistant Secretary for SAMH or the Assistant Secretary for SAMH's designee.

(d) Upon receipt by the Assistant Secretary for SAMH or the Assistant Secretary for SAMH's designee, the Department will issue a Letter of Authorization to the BHRS, with the effective date, the expiration date, and the names of all counties included in the BHRS.

(3) The Department shall authorize each BHRS for a period of three years.

(4) Authorization does not entitle participating counties and service providers to receive funding appropriated for substance abuse and mental health services.

(5) The Managing Entity shall display the authorized BHRS Plan on its website and encourage participating counties to publish the BHRS Plan on their websites to inform the public, local government officials, emergency services personnel, and transportation providers about the BHRS.

(6) The Managing Entity shall notify the regional SAMH Director in writing of any changes to the BHRS Plan within 30 calendar days of the proposed revisions.

(7) The Managing Entity shall submit a plan to the regional SAMH office addressing any proposed changes that may result in harm to the individuals receiving services or a gap in services would occur.

(8) The regional SAMH office will monitor the effectiveness of and adherence to the provisions of the BHRS Plan and to the standards of practice specified in Chapters 394 and 397, F.S., and rule chapters 65D-30, 65E-5, and 65E-12, F.A.C.

(9) Request for Renewal of Behavioral Health Receiving System Plan. Recommended form CF-MH 1077, (insert date), "Request for Renewal of Behavioral Health Receiving System Plan," which is incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX>, may be used for this

purpose.

(10) Behavioral Health Receiving System Access and Triage Centers.

(a) General Provisions. Pursuant to Section 394.4573, F.S., behavioral health receiving system access and triage centers (access centers) shall be included in the Behavioral Health Receiving System (BHRS) Plan for the county where the facility is located.

(b) Application and Supporting Documentation for Designation as a Behavioral Health Receiving System Access and Triage Center. Providers operating access centers that are not designated as receiving facilities shall apply to the Department for designation by completing and submitting mandatory form CF-MH 1079, (insert date), “Application for Designation as a Behavioral Health Receiving System Access and Triage Center,” which is hereby incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX>. The application shall be submitted to the SAMH Director responsible for the county where the access center is located.

(c) The Department’s regional office is responsible for reviewing the application, requesting additional information as needed, verifying essential information, and forwarding the information along with the recommendation of the regional SAMH director to the Secretary or the Secretary’s designee for final action. Applications received that are incomplete will be returned by certified mail with a letter informing the applicant of missing items. The regional office will seek and review pertinent information from any source, such as:

1. The provider organization’s accreditation status and submission of the latest survey report of any applicable accrediting bodies; and
2. The provider organization’s relevant history of compliance with the Baker Act and other related protection laws protecting individuals served by mental health facilities;

(d) The submission of the regional office’s recommendation to the Secretary or the Secretary’s designee shall be based on an analysis of all pertinent information identified under this Rule that was reviewed to process the application for designation.

(e) Within 60 calendar days of receiving the recommendation from the regional SAMH director, the Secretary or the Secretary’s designee will review the region’s analysis and recommendation and will issue a final departmental action with regard to the application which may be approved, or returned to the region for additional information or

processing.

(f) The designation shall be for 3 years.

(g) Application for Renewal of Designation as a Behavioral Health Receiving System Access and Triage Center. An application must be submitted for renewal of designation every three calendar years, after approval of the initial application, or 90 calendar days in advance of the relocation of a facility to a new address. The designation is valid only for the address to which it was issued.

(h) The application for renewal of designation shall be forwarded to the Department at least 90 calendar days prior to the expiration of its existing designation.

(i) An application for renewal of designation must be submitted by a facility upon a change of controlling ownership of the access center or of the contractual management entity for the psychiatric service. Failure to submit notification to the Department of changes of controlling ownership or a change in the management entity within 30 calendar days after the change will terminate the access center's designation 60 calendar days after the effective date of the action changing the control of ownership or management.

(j) Any change in the name of an access center that remains under the same ownership and management must be reported in writing to the Department's regional office within 30 calendar days after the effective date of the change. Failure to provide such notification to the Department's regional office within 30 calendar days of the change will result in the withdrawal of the designation upon the expiration of the 60<sup>th</sup> calendar day following the access center's name change.

(k) Minimum Standards for Behavioral Health Receiving System Access and Triage Centers.

1. Any access center failing to comply with this rule chapter may have such designation suspended or withdrawn in accordance with this Rule;

2. Each access center shall have policies and procedures that prescribe, monitor, and enforce all requirements specified in this rule chapter;

3. The designation certificate shall be displayed in a conspicuous, publicly accessible place within the facility;

4. Each access center shall assure that its reception, screening, and treatment services are operational for days and times in accordance with its Behavioral Health Systems Plan;

5. Each access center shall have a compliance program that monitors facility and professional compliance with Chapter 394, Part I, F.S., and this rule chapter. Every such program shall specifically monitor the adequacy of, and

the timeframes involved, in the facility procedures utilized to obtain informed consent for screening, evaluation, and treatment. This program may be integrated with other compliance activities;

6. Verbal or written information provided to individuals shall be accessible in the language and terminology the individual understands; and

7. In order to ensure the protection of the health, safety, and welfare of individuals treated in access centers, the following is required:

a. Implementation of policies and procedures for abuse reporting and training which shall be documented in each employee's personnel record or in a training log;

b. A personnel training plan that prescribes and assures that direct care staff, consistent with their assigned duties, shall receive and complete before providing direct care or assessment services 12 hours of basic orientation training, documented in the employee's personnel record. Procedures shall require that individuals who deliver the staff training curriculum for behavioral health services shall be qualified by their experience and training in the content presented;

c. Policies and procedures for submitting critical incidents into the Department's statewide designated electronic system specific to critical incident reporting within one business day of the incident occurring;

d. Seclusion and restraints shall not be used in these facilities, and the provider's policies and procedures shall prohibit staff from using seclusions and restraints; and

e. Involuntary screening and treatment of individuals in the access center shall be limited to a maximum of four hours.

Rulemaking Authority 394.457(5), 394.461(6), 394.46715 FS. Law Implemented 394.461 F.S. History—New.

#### **65E-5.357 Minimum Standards for Behavioral Health Receiving Systems Plan**

(1) Behavioral Health Receiving System (BHRS) Plan. Each plan shall outline how the BHRS is organized to function as a no-wrong-door model to deliver assessment and evaluation, treatment, and triage to individuals who present on a voluntarily or involuntary basis with mental health or substance use disorders, or both.

(2) The BHRS plan shall provide a description of the following components, at a minimum:

(a) An inventory of participating service providers and the corresponding street addresses and contact

information, including:

1. The capabilities and limitations of participating service providers and their ability to triage, assess and evaluate, treat, or stabilize both voluntary and involuntary individuals with a mental illness, a substance use disorder, or co-occurring disorders; and

2. The process for addressing any medical condition that must be stabilized and/or treated at any point during the episode of care;

(b) The model under which the BHRS functions, such as a central receiving system, coordinated receiving system, a tiered receiving system, or any other model or combination of models to ensure the integration of services necessary to respond to the individual receiving services;

(c) A description of the how participating service providers share data through formal agreements or cooperative arrangements to communicate with each other to coordinate care, including any plan of how they will improve sharing of data in the future;

(d) A description of the crisis response services that are available 24 hours per day, 7 days per week;

(e) A description of the no-wrong door model, including:

1. How individuals are screened, triaged, and evaluated for needed services and care, including a description of the service determination (level of care) tools; and

2. How care is accessed in the least restrictive level of care setting based on individual need, including referral processes, transportation, and follow-up to ensure successful linkage;

(f) How recovery-oriented and peer-involved approaches are incorporated in the BHRS;

(g) How nontraditional providers are engaged in areas where access to traditional providers is limited or not available (e.g. rural hospitals as possible triage centers, telepsychiatry, schools, emergency departments, etc.);

(h) Information about how the service providers coordinate with mobile response team(s);

(i) A description of the process to provide examination and treatment, if needed, to individuals with felony charges who may meet the criteria for an involuntary examination when requested by law enforcement; and

(j) A transportation plan developed pursuant to Section 394.462, F.S., which includes:

1. The training provided for law enforcement, emergency medical transport, or private transport companies to ensure safe and dignified transport of individuals with behavioral health conditions that may be aggressive, non-

ambulatory, or refusing to be transported; and

2. A description of how to address local issues that affect transportation of individuals being transferred between facilities, from a jail or prison, school or college/university, or other community location.

Rulemaking Authority 394.457(5), 394.461(6), 394.46715 FS. Law Implemented 394.461(5), 394.462, F.S. History–New.

**65E-5.358 Transportation.**

(1) Each law enforcement officer who takes an individual into custody for involuntary examination under the Baker Act or involuntary admission under the Marchman Act shall provide the receiving facility or access center one of the following:

(a) Recommended form CF-MH 3001, July 2020, “Ex Parte Order for Involuntary Examination,” which is incorporated by reference in 65E-5.280, F.A.C. , or other form provided by the court;

(b) Mandatory form CF-MH 3052a, July 2020, “Report of a Law Enforcement Officer Initiating Involuntary Examination,” which is incorporated by reference in 65E-5.280, F.A.C.;

(c) Mandatory form CF-MH 3052b, July 2020, “Certificate of Professional Initiating Involuntary Examination,” which is incorporated by reference in 65E-5.280, F.A.C., and

(d) All forms required by Section 397.321(20), F.S.

(2) The designated law enforcement agency shall transport the individual to the designated receiving facility within the behavioral health receiving system pursuant to the county approved transportation plan or to the nearest receiving facility, documenting this transport on mandatory form CF-MH 3100, (insert date), “Transportation to a Receiving Facility,” which is incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXX>. The designated law enforcement agency may decline to transport the individual if the county has contracted with an emergency medical transport service or private transport company and the law enforcement agency and the emergency medical transport service or private transport company agree that the continued presence of law enforcement is not necessary for the safety of the individual or others. Part II of mandatory form CF-MH 3100, “Transportation to Receiving Facility,” reflecting the agreement between law enforcement and the transport service shall accompany the individual to the receiving facility.

Rulemaking Authority 394.457(5) FS. Law Implemented 394.462, 394.463 FS. History–New.

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