Consolidated Licensure

Options for a Single, Consolidated License for Providers Offering Multiple Types of Mental Health or Substance Abuse Services, or Both.

Prepared pursuant to s. 394.879(6), F.S.

Prepared in cooperation by:

The Agency for Health Care Administration and Florida Department of Children and Families

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I. Executive Summary

On April 15, 2016, Governor Rick Scott signed Senate Bill 12[1], a sweeping overhaul of Florida systems for the delivery of substance abuse and mental health treatment services. Among its provisions, the measure directed the Department of Children and Families (Department) and the Agency for Health Care Administration (Agency) to develop a plan to modify their licensure requirements to create an option for a single, consolidated license for providers that offer residential mental health services, treatment for substance use disorders, or both. In the plan, the Department and the Agency are required to identify the statutory revisions necessary to accomplish the consolidation, and, to the extent possible, the Department and the agency shall accomplish such consolidation administratively and by rule.[2]

Licensure staff from the Agency and the Department reviewed the similarities and differences among the programs to identify the necessary steps needed to accomplish the goal of consolidation. Chapters 394 and 397, Florida Statutes (F.S.) were reviewed for inconsistencies to consolidation and necessary changes were identified. A crosswalk of current providers was reviewed to identify providers with multiple licenses, and licensure requirements for the individual programs were compared. Staffing and required changes to the licensure systems were identified as the areas of most concern. The review focused on the licensure requirements in Chapters 394, Part IV and 397, Part II, F.S. It did not consider amending the process for designating Baker Act or Marchman Act receiving facilities. Chapter 394, F.S., currently contains provisions for integrated receiving facilities.

During development of the plan options, the efforts required to achieve the goal and the disruption it would cause for all providers questioned the presumed benefit to the few providers[3] eligible for a consolidated license based on a comparison of licensees regulated by both the Agency and the Department. Although the Agency and Department are outlining options to consolidate mental health and substance abuse into a single behavioral health licensure, neither recommends it. An alternative is provided allowing the Agency and Department to consolidate licenses they issue within their respective agencies.

If the decision is made to consolidate licensure either within the Department or the Agency, this document describes the implementation steps based on legislation effective July 1, 2017, including the rule development process, required computer programming, and transition of licensure as providers apply for licensure or renew existing licenses. It is estimated the entire process from initiation to finalization would take several license cycles, and be completed by 2021.

II. Current Status of Licensure

Residential mental health and substance abuse treatment provider licensure programs are divided between two statutes and two state agencies. Part IV of Chapter 394, F.S.

[1] Ch. 2016-241, L.O.F.

[2] Subs. 394.879(6), F.S.

[3] It is estimated that less than 50 out of about 1,000 providers are eligible for a consolidated license.

authorizes the Department in consultation with the Agency to administer the regulation of residential mental health programs. Part II of Chapter 397, F.S. directs the Department regarding the regulation of substance abuse treatment providers and the service components they offer.

II. A Substance Abuse Programs – licensed by the Department

The Office of Substance Abuse and Mental Health (SAMH) is located at the Department and is recognized as the single state authority for substance abuse and mental health services. The SAMH Office is statutorily responsible for the planning and administration of all publicly-funded substance abuse and mental health services, and for licensing substance abuse providers. Licensure functions are implemented by SAMH staff in each region of the Department statewide.

The provision of substance abuse services is governed by Chapter 397 of the Florida Statutes, which provides direction for a continuum of community-based services -- including prevention, treatment and detoxification. Chapter 397, F.S. also provides for the licensure and regulation of licensable service components, such as detoxification, intervention and prevention. The Department has adopted Chapter 65D-30, Florida Administrative Code (F.A.C.), which implements the standards for the twelve (12) licensable service components as defined in s. 397.311, F.S. This rule creates the levels of components or "sub-components."

As of August 31, 2016, SAMH had licensed more than 3,000 substance abuse services offered by 931 providers. Regional licensure specialists are tasked with the oversight of all licensing functions. There are 25 full-time equivalent (FTE) licensure specialist positions, including supervisors and five (5) Other Personal Service (OPS) employees in the Department's regional offices. Only four (4) FTE are dedicated to spending 100 percent of their time on licensure, while the remaining staff have additional duties. All specialists (except supervisors) are responsible for receiving and reviewing licensure applications, policies and procedures, as well as collecting fees, conducting inspections, reporting deficiencies, issuing citations and licenses, and manually entering all provider data in the Substance Abuse Licensure Information System (SALIS). Tables 1 and 2 provide further details on the number of applications, inspections and licensable service components.

Table 1 Substance Abuse Licensed Components

License Type	License Count*	Description
Addiction Receiving Facilities	20	A secure, acute-care facility that provides, at a minimum, detoxification and stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the Department to serve individuals found to be substance use impaired as described in Ch. 397.675, F.S., and who meet the placement criteria for this component.
Aftercare	209	A program for clients who have successfully completed services and are in need of relapse prevention. The provider will outline goals to be accomplished during aftercare, including regular counseling sessions and ancillary services.
Day or Night Treatment	237	A program that provides a structured schedule of treatment and rehabilitative services in a nonresidential environment.
Day or Night Treatment with Community Housing	153	A program for clients who can benefit from living independently in peer community housing while participating in treatment services for a minimum of 5 hours per day for at least 25 hours per week.
Detoxification	177	Subacute care services provided on both an inpatient and outpatient basis to help clients withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria for this component. *Sub-components include outpatient detoxification (73), outpatient methadone detoxification (12), residential detoxification (89) and residential methadone detoxification (89)*.
Intensive Inpatient Treatment	29	A planned regimen of evaluation, observation, medical monitoring and clinical protocols in a highly structured, live-in environment, delivered by an interdisciplinary team 24 hours per day, 7 days per week.
Intensive Outpatient Treatment	502	A service that provides individual or group counseling in a structured environment of higher intensity and duration than outpatient treatment, provided to clients who meet the placement criteria.

Table 1 Substance Abuse Licensed Components – *continued*

License Type	License Count*	Description
Intervention	360	Structured services for individuals and groups at risk of substance abuse, focused on reducing or impeding those risk factors associated with the onset or early stages of substance abuse and related problems. S*ub-components include case management (118), employee assistance programs (11), general (205) and treatment alternatives for safer communities (TASC) (26).*
Prevention	357	A process involving strategies aimed at the individual, family, community or substance and that preclude, forestall or impede the development of substance use problems and promote responsible lifestyles. Sub-components include *Level 1 (248) and Level 2 (109).*
Medication and Methadone Maintenance Treatment & Satellite Maintenance	51	The use of medications approved by the U.S. Food and Drug Administration, combined with counseling and behavioral therapies, to provide a holistic approach to the treatment of substance abuse.
Outpatient Treatment	1009	A service that provides individual, group and family counseling by appointment during scheduled operating hours for clients who meet the placement criteria.
Residential Treatment	314	A service provided in a structured, live-in environment, in a nonhospital setting, on a 24-hours-per-day, 7-days-per-week basis to individuals who meet the placement criteria. There are five levels of residential treatment, which vary by the type, frequency and duration of services provided. *Sub-components include: residential level 1 (66), level 2 (134), level 3 (20), level 4 (34) and level 5 (60).*

**Source: SALIS – as of August 31, 2016*

Table 2 Substance Abuse Application Processing and Inspections

Fiscal Year	Total Applications	Initial License	Renewal	Inspections
2014-2015	3,164	819	2,345	1,948
2015-2016	3,841	1,041	2,800	2,442
Average	3,502	930	2,573	2,195

II. B Residential Mental Health Programs – licensed by the Agency

The Agency's Division of Health Quality Assurance licenses, certifies, or registers over 40 provider types and more than 42,000 providers. Chapter 408, Part II, F.S., defines the Agency's core licensing requirements, which are applicable to all providers licensed by the Agency including the residential mental health programs. Specific licensure requirements of residential mental health facilities are governed by Chapter 394, F.S. The Department, in consultation with the Agency, has adopted Chapters 65E-4, 65E-5, 65E-9, and 65E-12, F.A.C., implementing four licensure programs. The Agency is responsible for licensing these programs. The Department is responsible for the planning, evaluation, and implementation of a complete and comprehensive statewide program of mental health, and the coordination of care through contracts with the Managing Entities.

As of August 31, 2016, the Agency has 183 active licenses issued to 76 providers. Although duties are spread across staff whose time is spent on multiple provider programs, it is estimated that a total of three full-time equivalent (FTE) positions are allocated to application review and inspection duties, including supervisory review. The residential mental health licensing application reviews are conducted by 1.5 FTEs assigned to the Hospital and Outpatient Services Unit (Tallahassee) within the Bureau of Health Facility Regulation. Applications are reviewed to assure minimum requirements are met. The appropriate field office is notified when an initial applicant is cleared for inspection. Residential mental health licensure inspections are conducted by approximately 1.5 FTEs statewide, based on the number of licensed providers and the time necessary to conduct an inspection. Tables 3, 4, and 5 provide details regarding the number of providers, licensure applications, and inspections.

The Agency makes detailed provider information available at http://www.floridahealthfinder.gov/facilitylocator/FacilitySearch.aspx.

Table 3 Residential Mental Health Programs

License Type	License Count	Description
Crisis Stabilization Units (CSU) 65E-5 & 65E-12, F.A.C.	51	A state-supported short-term alternative to inpatient psychiatric hospitalization and an integrated part of a designated public receiving facility, providing brief intensive services for individuals who are presented as acutely mentally ill. The purpose of a CSU is to examine, stabilize and redirect people to the most appropriate and least restrictive treatment settings consistent with their needs.
Short-term Residential Treatment Facilities (SRT) 65E-5 & 65E-12, F.A.C.	5	A state-supported acute care residential alternative service, generally of 90 days or less, and which is an integrated part of a designated public receiving facility. The purpose of an SRT is to provide intensive short-term treatment to individuals who are temporarily in need of a 24-hour-a-day structured therapeutic setting in a less restrictive, but longer-stay alternative to hospitalization.
Residential Treatment Facilities (RTF) 65E-4.016, F.A.C.	96	A for-profit or not-for-profit entity providing mental health services in a homelike setting, averaging a 60 day or greater length of stay. The admission criteria are defined by the level of service. See Table 4 for program descriptions by level.
Residential Treatment Centers for Children and Adolescents (RTC) 65E-9, F.A.C.	31	A private for-profit or not-for-profit facility providing treatment and services to persons under 18 years of age who have an "emotional disturbance" or "serious emotional disturbance or mental illness" as defined in s. 394.492(5) or (6), F.S. Additional designations may include Community Residential Home, Therapeutic Group Home or Psychiatric Residential Treatment Facility.

Table 4 Residential Treatment Facility (RTF) Program Descriptions by Level

Level	License Count	Description
Level IA and IB	15	A facility providing a structured group treatment setting with 24 hours per day, 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.
Level II	45	A facility providing a structured group treatment setting with 24 hour per day, 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.
Level III	16	A facility consisting of collocated apartment units with an apartment or office for staff who provide on-site assistance 24 hours per day, 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.
Level IV	18	A facility providing a semi-independent, minimally structured group setting for 4 or more residents who have attained most of the skills required for independent living and require minimal staff support. Supervision may be less than 24 hours per day, 7 days per week onsite, however, on-call staff must be available at all times.
Level V	2	A Level V facility provides a semi-independent, minimally structured apartment setting for 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. Supervision may

		be less than 24 hours per day, 7 days per week onsite, however, on-call staff must be available at all times.

Table 5 Residential Mental Health Application Processing and Inspections

Fiscal Year	Total Applications	Initial License*	Renewal	Inspections
2014-2015	137	17	88	152
2015-2016	107	8	80	147
Average	122	13	84	150

*Includes reactivation of licenses that fail to timely renew.

Source – Versa Regulation, August, 31, 2016

III. Differences in Licensure Requirements

Specific requirements of licensure vary between the Agency and Department for residential mental health and substance abuse providers.

III. A. Common Requirements and Processes

Both agencies process applications in accordance with Chapter 120, F.S. including review of licensure applications within 30 days of receipt and allowing applicants time to correct omissions. Common requirements also exist for background screening for administrative and patient care staff, liability insurance, annual fire safety inspection (local Fire Marshall), annual sanitation inspection (local Department of Health office), accreditation reports, if applicable, and staff AIDS/HIV training.

III. B. Disparate Requirements and Processes

Table 6 Process Comparisons

Agency – Residential Mental Health	Department – Substance Abuse
Electronic applications available (renewal)	Paper applications only
Applicants have 21 days to respond to an omission - extensions permissible	Applicants have 10 days to respond to an omission - extensions permissible
Issue licenses within 60 days of a complete application	Issue licenses within 90 days of a complete application
An initial license is not issued until an inspection verifies compliance	Probationary license issued to applicants pending inspection
Biennial licensure period	Annual licensure period
License fee based on bed count	License fee based on service component
No personnel qualifications	Personnel employment history and reference checks
No financial ability review required for the residential mental health programs	Applicants must provide proof of financial ability to operate

Biennial inspection unless accredited, in which case only complaint inspections are conducted	Annual inspection, unless accredited, in which case every three years

Table 6 Process Comparisons - *continued*

Agency – Residential Mental Health	Department – Substance Abuse
Required participation in EMResource for disaster preparation and response	Does not participate in EMResource
Staff resources for residential mental health regulation: Although no staff dedicate 100% of their time, the equivalent of 3 staff are allocated	Staff resources for substance abuse regulation: 4 staff dedicate 100% of their time 25 staff spend a portion of their time
Approximately 140 applications and 150 inspections per year	Approximately 3,000 applications and 1,900 inspections per year
183 active providers	931 providers
169 accredited providers (92%)	249 accredited providers (27%)

IV Options for Licensure Consolidation

Most, if not all, changes to statute and rule necessary to implement a consolidated licensure system will be to the regulatory processes and not to the delivery of care offered by the providers.

There are two options to meet the legislature's directive to develop a plan for a single license to providers offering multiple types of services and a third hybrid option that will allow the Agency and the Department to each offer a single license to providers offering multiple types of services:

Option 1 - The Agency assumes licensure for all behavioral health providers including residential mental health and substance abuse.

Option 2 - The Department assumes license all behavioral health providers including residential mental health and substance abuse.

Option 3 – The Agency and the Department will each develop a consolidated licensure process within existing statutory authority and with current resources.

Either Option 1 or 2 will require amendments to licensure statutes to move licensure authority to the designated licensing agency and changes to licensure requirements to fit the licensure structure of the designated licensing agency. Significant changes would include proof of financial ability to operate, background screening processes, licensure processing times, recognition of deemed status for accreditation, and inspection requirements. Based upon the transition steps necessary to complete the consolidation process, full implementation is expected to require five years. During this time, the designated agency will promulgate rules, modify licensure database systems including online applications, transition existing providers as licenses renew. Staff must transition to the designated agency and depending on the final requirements, additional staff may be required to handle expanded requirements including more inspections. Funding will be required for database creation or modification.

The Department and the Agency would follow s. 20.06, F.S., methods of reorganization to ensure that the responsibilities are transferred effectively following the time the change is effective by law.

IV. A. 1. Option 1 – Agency Assumes Responsibility for Behavioral Health Licensure

For the Agency to assume licensure duties, the oversight of substance abuse providers would have to move from the Department to the Agency. Substance abuse providers would be included in the licensure requirements of Chapter 408, Part II, F.S., and other adjustments would be required to conform to uniform Agency licensing standards.

Creating a single behavioral health license incorporating all of the requirements of the existing five provider types (four residential mental health plus substance abuse) will require the development of a new provider type in the Agency's licensure database. A transition period of at least two to three years (included in the implementation period) will be necessary while providers apply for a behavioral health license prior to the expiration of their current license(s). This process will need to be managed in phases as approximately 80% of the potential behavioral health providers (931 substance abuse providers with more than 3,000 active licenses) are currently issued a one year license from the Department. The impact of transitioning a large number of providers to the Agency in the relatively short period of time of one year will draw the limited staff resources needed for application review and inspections away from the other regulated programs. In addition to other state licensing programs, the Agency has obligations to the Centers for Medicare and Medicaid Services to conduct certification activities within specific timeframes. Failure to meet the timeframes may result in a reduction or loss of federal funding.

Prior to accepting behavioral health applications, statute and rule amendments will need to be in place; programming changes to the licensure systems will need to be made; and staff training will need to be conducted.

Statutes and Rules

Changes to Chapters 394 and 397, F.S. will be required to shift regulatory oversight and rulemaking to the Agency. In addition to movement of the regulatory authority, change is suggested to s. 394.875(1), F.S. which currently limits crisis stabilization beds to 30, except in circuit 18, which may have up to 50. Without changes, CSUs may have to reduce beds if combined.

Because the Department will retain responsibilities related to state mental health services and involvement with Department clients, there will continue to be shared responsibilities even if all licensure duties are transferred to the Agency. A uniform and reliable means of communication between the Department and the Agency will need to be established in order to avoid inconsistencies and duplication of efforts. Sections of Chapter 397, F.S. and corresponding rule containing licensure application requirements will need to be removed or amended so there is no conflict with Chapter 408, F.S. Changes that would be seen by substance abuse providers include biennial instead of annual license, background screening reviews and the exemption process, issuing only standard licenses instead of an option for provisional, assessment of late application fees.

Licensure

Mental health providers do not need to document proof of financial ability to operate in order to be licensed. It is a requirement for substance abuse providers. A statutory change can be made to make proof of financial ability to operate a requirement for all behavioral health providers, not a requirement for any behavioral health providers, or continue requiring it for one type but not the other. The Agency has an established process for the licensure programs required to document proof of financial ability to operate. Details are specified in s. 408.8065, F.S. and AHCA Form 3100-0009

Once the statutes are amended, the Agency must update the rules for mental health programs to reflect consolidation and transfer and update the rules for the substance abuse providers. Changes in rule will be required to remove rules in conflict with issuing a consolidated license, such as 65E-4.016 (3)(b), F.A.C.; update applications to be consistent with Agency formats and requirements; and establish eligibility criteria for a provider to apply for a consolidated license.

(available at: http://ahca.myflorida.com/MCHQ/HQALicensureForms/index.shtml).

Fees

Section 397.407, F.S. stipulates the licensure and renewal fees shall be set to cover at least 50% of the costs of regulating the (substance abuse) service components. In addition, fees must be deposited in the Operations and Maintenance Trust Fund to be used for the actual cost of monitoring, inspecting, and overseeing licensed service providers. This will need to be amended to be consistent with s. 408.16, and 408.805, F.S. providing for fees to be deposited in the Health Care Trust Fund; cover the costs of regulation; and adjust fees annually as needed. The requirement for fees to pay for the cost of licensure (408.815, F.S.) may require fees be increased for substance abuse providers.

Licensure System Programming

The Agency's licensure system and the online licensing system stores the four residential mental health programs in three distinct provider types (client types). Crisis stabilization units and short-term residential treatment facilities are combined in one client type due to the similarities of the programs and small number (5 providers) of licensed short-term residential treatment facilities. In order to issue a consolidated license, all of the provider data needs to be in one client type. The differences between the residential mental health programs do not allow for an easy electronic migration of data from one client type to another without significant re-programming. Costs to implement needed changes are estimated to be a minimum of $200,000. In addition to the licensure systems, the Agency utilizes the federal ASPEN system for inspections. The substance abuse providers will need to be manually entered into the ASPEN system in order to schedule, track, and record inspections. The federal system will not require modifications similar to the state systems, but will require staff time. Even with the electronic migration of some data, the time required to process so many records will require a significant transition period. A transition schedule would be created to systematically move selected providers. Providers could be selected by service component, address/region, or other factors determined by the Agency and Department.

Staff

The Agency's Hospital and Outpatient Services licensing unit currently processes the applications submitted by the residential mental health providers. Three professional staff and a unit manager are involved with licensing these programs. All staff have additional duties and cannot contribute 100% of their time to the residential mental health programs. Allocation of all staff time for the residential mental health programs is equivalent to approximately 1.5 FTEs. In order to accomplish the same tasks with no drop in accuracy and timeliness, an increase in FTEs should be commensurate with the five-fold increase in workload (7.5 additional FTEs), or the equivalent decrease in Department licensure staff. As this plan calls for a phased-in process, additional staff would be hired as the workload increases (4.0 FTEs in year 1, 2.5 FTEs by year 2, and 1 FTE by year 3).

Conducting the licensure inspections will require a greater increase in FTEs than application reviews as this process is more labor intensive. Surveyor training would begin once rules are in place, and a regulation set with guidance to surveyors is developed. The Agency has eight field offices across the state. Each field office has surveyors trained and qualified for the type and number of providers in their designated area. Some surveyors work with only one provider type, such as clinical laboratories due to the highly technical nature of the program, and nursing homes requiring experience in the nursing field. Most surveyors are trained to inspect multiple provider types. None of the surveyors work exclusively with the residential mental health programs. Similar to the staff processing licensure applications, surveyors can contribute only a small percentage of their overall time to conducting residential mental health inspections. The Agency conducts an average of 150 residential mental health inspections per year. Most (85%) are complaint investigations, since 173 (95%) of the 183 residential mental health providers are accredited (deemed) and therefor are not routinely inspected by the Agency. Complaint investigations focus on the allegations and require less time to conduct than full licensure inspections. An investigation will take an experienced surveyor a half-day to complete a focused investigation. A full licensure inspection will take a whole day. Adding four to five hours for preparation, travel and reporting time, approximately 1.5 FTEs are required to inspect the existing residential mental health programs annually. Adding a new program will require initial licensure inspections in order to become licensed or 931 inspections for the existing providers plus complaint investigations and approximately 200 new providers per year during the phase-in period. The Department calculates 2,195 inspections are performed at substance abuse providers annually. The majority will be full investigations as only 27% of the substance abuse providers are accredited. The Agency estimates an additional 14.8 surveyor FTEs will be needed to handle the increased workload assuming the time required to complete the inspection will be similar to full residential mental health inspections with trained but inexperienced surveyors. The positions would be added in concert with the phase-in with at least eight being added during the first year. The surveyor positions would be distributed among the eight field offices commensurate with the number of providers in each region.

IV. A. 2. Option 2 Details – Department Assumes Responsibility for Behavioral Health Licensure

In addition to the regulatory changes and system modifications to move residential mental health to the Department, transferring the behavioral health service licensure and

oversight to the Department requires changes to contracts with the Managing Entities, shift in resources and other modifications.

A seamless transition -- with no gap in the licensure process or services -- will require transferring positions, resources and data. It will also require the realignment of renewal years, inspections, background screening requirements, and fees.

The transition must be done in phases to ensure the least burden on providers and Department staff. The first phase will be to submit a bill with identified statutory changes for the 2017 Legislative Session, ideally taking effect July 1, 2017. Once the bill is signed into law, the transitioning of staff, and resources must commence quickly, because a full transition of responsibilities cannot begin until this first step is complete. Further, the drafting of rule revisions also must begin on July 1, 2017, and the Department may be able to initiate rule-making by January 1, 2018. It takes an average of 18 months to two years for a rule to be adopted. It may be possible to complete the promulgation process by January 2020.

Once the rules have been adopted, the next phase will entail updating the licensure system and contract amendments for the Managing Entities, and data programmers.

Although, the Department can begin training staff on the new licensure standards ahead of the rule changes, its trainings on the new data system may be implemented only when the changes are complete. Providers, who will be phased-in upon renewal of their license, will also require training. It is likely that the new behavioral health service licensure process can be entirely in place by 2021.

Statutory Alignments

Chapter 394, Florida Statute, will need to be amended authorizing the Department to adopt rules, licensure responsibilities and regulatory authority for mental health services. Additionally, a new license type for “behavioral health services” needs to be created, and standards will have to be aligned. Tables 7 and 9 provide details on required statutory amendments.

Licensure

The current substance abuse licensure process requires applicants to submit one application (C&F-SA Form 4024) per component, pursuant to Chapter 65D-30, F.A.C. To ease the process for providers, the Department’s licensure application will be revised. Providers will submit one application per location, with the option of applying for licenses for one or more components at that specific site. They will be given a single license that lists each component offered on the premises. A definition for "site/premises" will be added to Chapter 397, F.S. Further, "premises" is already defined in s. 394.67(19), F.S., and will need to be referenced in Chapter. 397,F.S.

Currently, Chapter 397, F.S., requires substance abuse providers to undergo an annual renewal and inspection unless the provider is accredited; accredited providers are inspected every three years. Provisions in Chapter 408, F.S., requires biennial licensure inspections of residential mental health programs, unless they are accredited. Inspection authority in Chapter 394, F.S., would have to be amended.

Additionally, s. 394.4572, F.S. requires a Level 2 background screening for all mental health personnel who work in public or private mental health programs and facilities. This applies to all program directors, professional clinicians, staff members and volunteers who have direct contact with individuals held for examination or admitted for mental health treatment. In contrast, s. 397.451, F.S., requires Level 2 screening for all owners, directors, chief financial officers and other personnel who have contact with children or adults with developmental disabilities. Therefore, the screening requirements for behavioral health services must be aligned and established for co-located mental health and substance abuse services. The provision for co-located services will require all staff to be screened as established for mental health providers. In instances when statutes conflict, the more stringent requirement of either statute will apply.

Fees

A new methodology will be necessary to establish fees for licensing behavioral health services and for aligning late fees between the Department and the Agency. For instance, the Department's fee for regulating substance abuse is designed to cover at least 50 percent of the cost of regulating services; it is based on the number and complexity of the services in question. Further, the Department charges a $100 late fee for the late filing of a renewal application for each service component. The Agency, meanwhile, collects fees based on application and bed count, and charges $50 per day as a result of late filing for renewal. Additionally, Chapter 394, F.S., should be amended to require that fees be collected by the Department and deposited in the Operations and Maintenance Trust Fund to be used for the actual cost of monitoring, inspecting and overseeing licensed service providers.

Licensure System Programming

The Department is in the early stages of procuring a new system that will enable providers to apply for licensure online, upload required documentation and submit payments electronically. This will streamline the licensure process. However, the requirements for improving the functionality of mental health licensing in the current system are unknown. A cost analysis will be necessary. Once a plan has been approved, there will be a cost associated with data migration and revisions and/or updates to the current data system.

Staff

Department licensure staff positions may need to be reclassified or rehired at levels qualified to conduct inspections for licensing mental health facilities for quality assurance. It will be necessary to transfer 3 FTE positions from the Agency to the Department to take on the increase in workload.

Training

Once the new rules have been adopted, licensure staff statewide will require training. The Licensure and Designation Unit staff at Department headquarters and the regional licensure specialists and supervisors will receive face-to-face training from the vendor of the licensure system. Additional training will need to be provided by the vendor via a web-based presentation. After the initial training, headquarters staff will be able to provide technical assistance to the regions as needed. Training needs will be assessed monthly on the statewide licensure calls.

IV. A. 3. Option 3. Each Agency Offers a Consolidated Licensure within Existing Authority

As an alternative to shifting all licensure to a single authority, the Agency and Department present a third option to consolidate licensure within each agency for regulated providers.

Under Option 3, the Agency and Department considered offering a consolidated license within their own licensing responsibilities. Other considerations were: exempting providers from s. 397, F.S. who are licensed for residential mental health services; the Agency licensing substance abuse service components that require a medical director on staff and 24 hour supervision; no change due to the costs and programmatic challenges; both agencies with dual responsibilities issue the same type of consolidated license; transfer licensing functions to a contracted resource; repeal the licensure requirements and focus on the funding and continuity of care requirements of statute. The other considerations were deemed outside the intent of the legislative directive and were not pursued.

Agency Licensure Consolidation

The Agency may offer a consolidated residential mental health license instead of a behavioral health license by consolidating the four license types currently issued by the Agency. This would not require changes to staffing or require extra training. No changes would be needed to Chapter 394, F.S, although statutory maximum bed capacities could be addressed; specifically for CSUs. Offering a consolidated residential mental health license would require the same programming changes to the Agency's licensure database described in the consolidated behavioral health license plan. Rule changes would be needed to remove any conflicting language such as co-location of different programs and combining different licensure levels (RTFs), and set criteria for eligibility.

Review of the 76 active providers revealed 42 providers hold multiple residential mental health licenses. Up to 26 providers would be eligible to consolidate all or some of their licenses if they chose to do so. No other impacts are anticipated.

Department Licensure Consolidation

The Department may offer a consolidated license to streamline the application process for substance abuse providers. Oversight for the licensure of mental health and substance abuse services will remain unchanged, continuing as the respective responsibilities of the Agency and the Department. However, consolidating the current substance abuse licensure process within the Department will benefit both providers and the Department by reducing administrative burden.

This Option will require no statutory changes and minimal rule revisions. The Department will determine the necessary modifications to the data system and the cost of identified modifications. This amount will be compared to the cost of a new data system. The Department will draft a revised application and licensure process, and begin the rule promulgation needed to implement the changes.

Applicable sections in Chapter 65D-30, F.A.C., will be revised to consolidate the licensure process and reduce duplication where possible.

Description of Benefits for Option 3:

- No statutory amendments required.
- No change to provider requirements or licensure fees.
- Reduces burden on providers caused by submitting duplicative information multiple times.
- Decreases overall application processing time.
- Reduces number of applications submitted.
- Decreases time spent on data entry.

Table 7 Statutory Revisions Summary

All Behavioral Health Providers Licensed Through The Department	
Chapter 394, F.S.	• Authorize the Department to write rules setting criteria for a behavioral health license; • Strike occurrences of Agency and replace with the Department when pertaining to the licensure and regulatory duties; • Strike references of 408 Part II; • Amend or strike language inconsistent with a consolidated license • Amend licensure requirements to be consistent for all provider types.
Chapter 397, F.S.	• Authorize the Department to write rules setting criteria for a behavioral health license; • Strike occurrences of Agency and replace with the Department when pertaining to the licensure and regulatory duties.
Chapter 408, F.S.	• Strike references to the residential mental health programs.

Table 7 Statutory Revisions Summary - *continued*

All Behavioral Health Providers Licensed Through The Agency	
Chapter 394, F.S.	• Authorize the Agency to write rules in consultation with the Department setting criteria for a behavioral health license. • Strike some occurrences of the Department and replace with the Agency; • Insert the Agency in some occurrences in addition to the Department.
Chapter 397, F.S.	• Authorize the Agency to write rules in consultation with the Department setting criteria for a behavioral health license; • Add definition of “Agency”; • Identify the duties of the Agency; • Insert references to 408, F.S.; • Strike some occurrences of the Department and replace with the Agency; • Insert the Agency in some occurrences in addition to the Department; • Amend licensure requirements to be consistent for all provider types; • Authorize the Agency to license by provider instead of service component.
Chapter 408, F.S.	• Make necessary changes to include substance abuse providers as part of the behavioral health licensure.

Table 8 Overview of Statutory Amendments – Behavioral Health Licensed by the Department

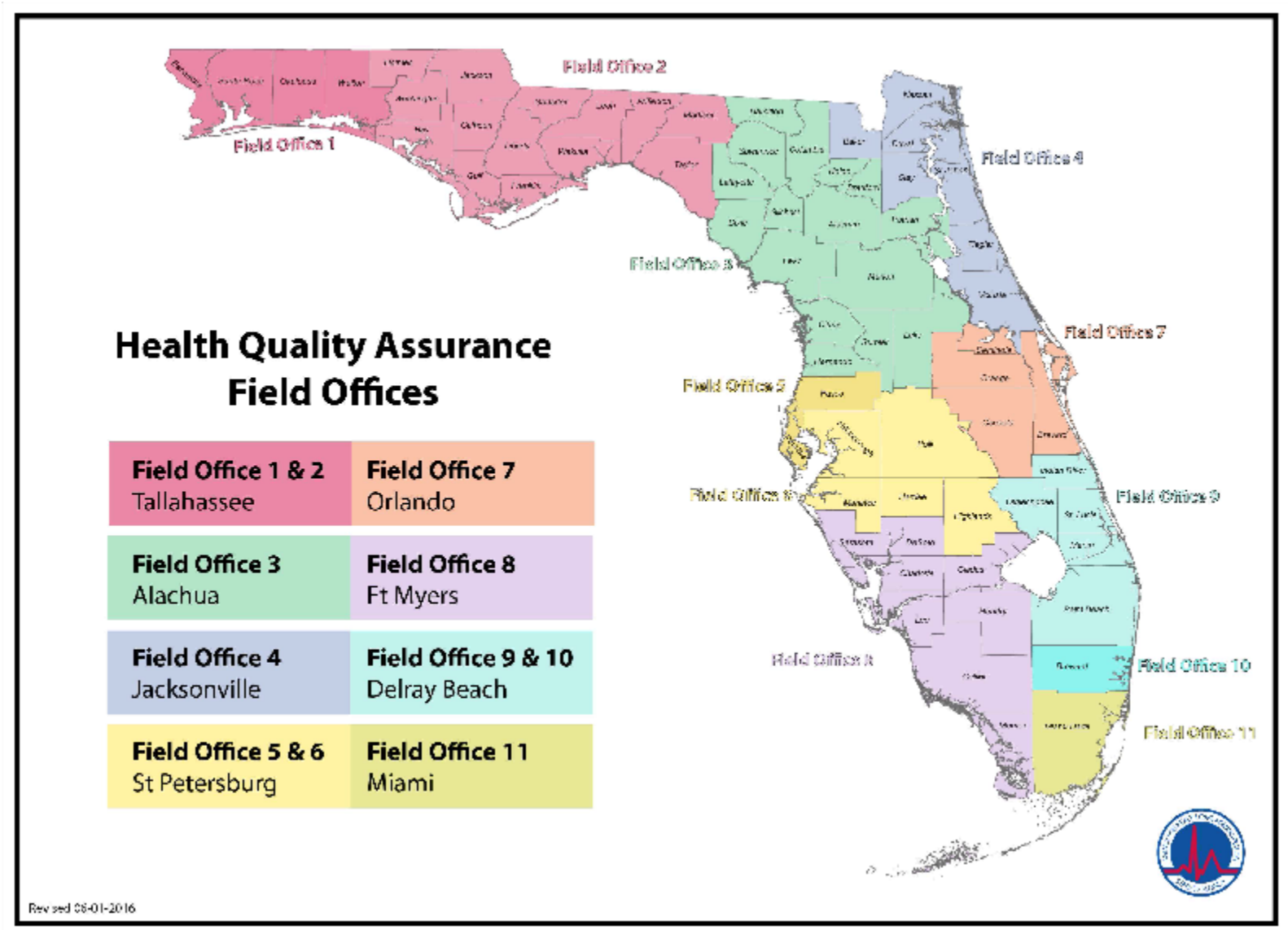
Chapter 394, Part IV, F.S.	
394	Authorize the Department to write rules setting the criteria for a behavioral health license.
394.457	Operation and administration – Amend. The Department shall exercise executive and administrative supervision over providers who offer multiple types of either mental health services or substance abuse services, or both. Any reference to Agency licensure responsibilities is to be removed. The Agency (Medicaid) will remain responsible for its current fiscal duties.
394.4572	Amend this section to keep more stringent regulations and make the process for background screenings consistent among all programs for providers offering multiple types of either mental health services or substance abuse services, or both. The only Agency involvement will be operation of the clearinghouse. Revise to allow the Department to grant exemptions from disqualification only, as provided in Chapter 435, F.S.
394.461	Reporting Requirements – Allow for complete and consistent reporting. Remove outdated language.
394.4612	Integrated mental health crisis stabilization and addiction receiving facilities – may need additional edits. Remove the Agency for Health Care Administration
394.499	Remove outdated language; amend by adding language for the Department licensing processes for receiving facilities.
394.66, 394.67, 394.741	Remove references to the Agency.
394.741(b)	Remove the Agency; amend this section to include accreditation requirements for providers offering multiple types of either mental health services or substance abuse services, or both, licensed by the Department.
394.875	Remove the Agency; amend to include the Department as licensing entity for providers offering multiple types of either mental health services or substance abuse services, or both.
394.875(6)	A residential program cannot be co-located on the premises of a hospital. A hospital cannot lease its beds to another provider. Remove the Agency.
394.875(10)	Remove this section – it will be rendered obsolete by a consolidated license.

Table 8 Overview of Statutory Amendments – Behavioral Health Licensed by the Department - *continued*

Chapter 394, Part IV, F.S.	
394.876	Remove the Agency; amend to state that applications and documentation should be sent to Department for providers wishing to be licensed to provide multiple types of mental health services and substance abuse services.
394.877	Remove reference to s. 408.805 and amend methodology for assessing fees.
394.879	Remove the Agency; revise upon completion of the plan.
394.879(5)	Remove the Agency and reference to the State Fire Marshal, etc.
394.90	Remove the Agency and reference to s. 408.811.
394.903	Remove the Agency, independently or in conjunction with; add the Department.
394.907	Remove the Agency and reference to being an employee of the Agency.
Chapter 397, F.S.	
	Authorize the Department to write rules setting criteria for a behavioral health license.
397.311	Add to definitions, new services to be licensed by the Department.
	Authorize the Department to license by service component.
397.407(1)	Amend fees and categories of licenses.
Chapter 408, Part II, F.S.	
408.802	Remove residential mental health programs.

Table 9 Overview of Statutory Amendments – Behavioral Health Licensed by the Agency

Chapter 394, F.S.	
394.4572	Amend to make the background screening process consistent between all providers; Exemptions to be processed by the Agency.
394.461	Allow for complete and consistent reporting. Strike outdated language. Reconsider the need for this section in light of ME duties.
394.741	Strike Department and add Agency as appropriate.
394.875	Define Behavioral Health Provider and authorize the Agency to set criteria in rule in consultation with the Department.
Chapter 397, Part II, F.S.	
397.311	Add definition and renumber the rest of this subs.. Update references throughout this Chapter and related statutes accordingly.
397.321	Edit or delete duties assigned to the Agency. Renumber this subs..
397.32X	Create new subs. for duties of the Agency.
397.401	Strike Department and add Agency as appropriate
397.403	Forms, applications, and processes shall be in accordance with Part II of Chapter 408; Strike background screening language and refer to s. 394.4572.
397.406	Strike Department and add Agency as appropriate
397.407	Allow for consistent review of fees for all behavioral health programs in accordance with Chapter 408; Deposit fees into the health care trust fund as directed by s. 408.16.
397.407	Forms, applications, and processes shall be in accordance with Part II of Chapter 408.
397.411	Amend Department with Agency; Strike conflicting or redundant language to Chapter 408.
397.415	Amend Department with Agency.
397.416	Update outdated language and reference.
397.419	Amend Department with Agency
397.451	Make background screening process consistent for all licensed programs.
397.753	Amend Department with Agency.
Chapter 408, Part II, F.S.	
408.802	Amend core licensing statute to include the behavioral health programs
408.8065	Amend financial ability to operate requirement to include behavioral health programs, as appropriate.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