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2015 Legislature

1
2 An act relating to child protection; amending s.
3 39.2015, F.S.; providing requirements for the
4 representation of Children's Medical Services on
5 multiagency teams investigating certain child deaths
6 or other serious incidents; amending s. 39.303, F.S.;
7 requiring the Statewide Medical Director for Child
8 Protection and the district medical directors to hold
9 certain qualifications; requiring the Department of
10 Health to approve a third-party credentialing entity
11 to administer a credentialing program for district
12 medical directors, contingent on appropriations;
13 amending s. 458.3175, F.S.; providing that a physician
14 who holds an expert witness certificate may provide
15 expert testimony in criminal child abuse and neglect
16 cases; amending s. 459.0066, F.S.; providing that an
17 osteopathic physician who holds an expert witness
18 certificate may provide expert testimony in criminal
19 child abuse and neglect cases; amending ss. 39.301 and
20 827.03, F.S.; conforming provisions to changes made by
21 the act; reenacting ss. 39.3031 and 391.026(2), F.S.,
22 relating to child protection teams, to incorporate the
23 amendments made by the act to s. 39.303, F.S., in
24 references thereto; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:



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28 Section 1. Subsection (3) of section 39.2015, Florida
29 Statutes, is amended to read:
30 39.2015 Critical incident rapid response team.—
31 (3) Each investigation shall be conducted by a multiagency
32 team of at least five professionals with expertise in child
33 protection, child welfare, and organizational management. The
34 team may consist of employees of the department, community-based
35 care lead agencies, Children's Medical Services, and community-
36 based care provider organizations; faculty from the institute
37 consisting of public and private universities offering degrees
38 in social work established pursuant to s. 1004.615; or any other
39 person with the required expertise. The team shall include, at a
40 minimum, a child protection team medical director. The majority
41 of the team must reside in judicial circuits outside the
42 location of the incident. The secretary shall appoint a team
43 leader for each group assigned to an investigation.

44 Section 2. Section 39.303, Florida Statutes, is amended to
45 read:
46 39.303 Child protection teams; services; eligible cases.—
47 (1) The Children's Medical Services Program in the
48 Department of Health shall develop, maintain, and coordinate the
49 services of one or more multidisciplinary child protection teams
50 in each of the service districts of the Department of Children
51 and Families. Such teams may be composed of appropriate
52 representatives of school districts and appropriate health,



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53 | mental health, social service, legal service, and law
54 | enforcement agencies. The Department of Health and the
55 | Department of Children and Families shall maintain an
56 | interagency agreement that establishes protocols for oversight
57 | and operations of child protection teams and sexual abuse
58 | treatment programs. The State Surgeon General and the Deputy
59 | Secretary for Children's Medical Services, in consultation with
60 | the Secretary of Children and Families, shall maintain the
61 | responsibility for the screening, employment, and, if necessary,
62 | the termination of child protection team medical directors, at
63 | headquarters and in the 15 districts.

64 | (2) (a) The Statewide Medical Director for Child Protection
65 | must be a physician licensed under chapter 458 or chapter 459
66 | who is a board-certified pediatrician with a subspecialty
67 | certification in child abuse from the American Board of
68 | Pediatrics.

69 | (b) Each district medical director must be a physician
70 | licensed under chapter 458 or chapter 459 who is a board-
71 | certified pediatrician and, within 4 years after the date of his
72 | or her employment as a district medical director, either obtain
73 | a subspecialty certification in child abuse from the American
74 | Board of Pediatrics or meet the minimum requirements established
75 | by a third-party credentialing entity recognizing a demonstrated
76 | specialized competence in child abuse pediatrics pursuant to
77 | paragraph (d). Each district medical director employed on July
78 | 1, 2015, must, within 4 years, either obtain a subspecialty



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79 certification in child abuse from the American Board of
80 Pediatrics or meet the minimum requirements established by a
81 third-party credentialing entity recognizing a demonstrated
82 specialized competence in child abuse pediatrics pursuant to
83 paragraph (d). Child protection team medical directors shall be
84 responsible for oversight of the teams in the districts.

85 (c) All medical personnel participating on a child
86 protection team must successfully complete the required child
87 protection team training curriculum as set forth in protocols
88 determined by the Deputy Secretary for Children's Medical
89 Services and the Statewide Medical Director for Child
90 Protection.

91 (d) Contingent on appropriations, the Department of Health
92 shall approve one or more third-party credentialing entities for
93 the purpose of developing and administering a professional
94 credentialing program for district medical directors. Within 90
95 days after receiving documentation from a third-party
96 credentialing entity, the department shall approve a third-party
97 credentialing entity that demonstrates compliance with the
98 following minimum standards:

99 1. Establishment of child abuse pediatrics core
100 competencies, certification standards, testing instruments, and
101 recertification standards according to national psychometric
102 standards.

103 2. Establishment of a process to administer the
104 certification application, award, and maintenance processes



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105 | according to national psychometric standards.

106 | 3. Demonstrated ability to administer a professional code
107 | of ethics and disciplinary process that applies to all certified
108 | persons.

109 | 4. Establishment of, and ability to maintain, a publicly
110 | accessible Internet-based database that contains information on
111 | each person who applies for and is awarded certification, such
112 | as the person's first and last name, certification status, and
113 | ethical or disciplinary history.

114 | 5. Demonstrated ability to administer biennial continuing
115 | education and certification renewal requirements.

116 | 6. Demonstrated ability to administer an education
117 | provider program to approve qualified training entities and to
118 | provide precertification training to applicants and continuing
119 | education opportunities to certified professionals.

120 | ~~(3)~~~~(1)~~ The Department of Health shall use and convene the
121 | teams to supplement the assessment and protective supervision
122 | activities of the family safety and preservation program of the
123 | Department of Children and Families. This section does not
124 | remove or reduce the duty and responsibility of any person to
125 | report pursuant to this chapter all suspected or actual cases of
126 | child abuse, abandonment, or neglect or sexual abuse of a child.
127 | The role of the teams shall be to support activities of the
128 | program and to provide services deemed by the teams to be
129 | necessary and appropriate to abused, abandoned, and neglected
130 | children upon referral. The specialized diagnostic assessment,



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131 evaluation, coordination, consultation, and other supportive
132 services that a child protection team shall be capable of
133 providing include, but are not limited to, the following:

134 (a) Medical diagnosis and evaluation services, including
135 provision or interpretation of X rays and laboratory tests, and
136 related services, as needed, and documentation of related
137 findings.

138 (b) Telephone consultation services in emergencies and in
139 other situations.

140 (c) Medical evaluation related to abuse, abandonment, or
141 neglect, as defined by policy or rule of the Department of
142 Health.

143 (d) Such psychological and psychiatric diagnosis and
144 evaluation services for the child or the child's parent or
145 parents, legal custodian or custodians, or other caregivers, or
146 any other individual involved in a child abuse, abandonment, or
147 neglect case, as the team may determine to be needed.

148 (e) Expert medical, psychological, and related
149 professional testimony in court cases.

150 (f) Case staffings to develop treatment plans for children
151 whose cases have been referred to the team. A child protection
152 team may provide consultation with respect to a child who is
153 alleged or is shown to be abused, abandoned, or neglected, which
154 consultation shall be provided at the request of a
155 representative of the family safety and preservation program or
156 at the request of any other professional involved with a child



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157 or the child's parent or parents, legal custodian or custodians,
158 or other caregivers. In every such child protection team case
159 staffing, consultation, or staff activity involving a child, a
160 family safety and preservation program representative shall
161 attend and participate.

162 (g) Case service coordination and assistance, including
163 the location of services available from other public and private
164 agencies in the community.

165 (h) Such training services for program and other employees
166 of the Department of Children and Families, employees of the
167 Department of Health, and other medical professionals as is
168 deemed appropriate to enable them to develop and maintain their
169 professional skills and abilities in handling child abuse,
170 abandonment, and neglect cases.

171 (i) Educational and community awareness campaigns on child
172 abuse, abandonment, and neglect in an effort to enable citizens
173 more successfully to prevent, identify, and treat child abuse,
174 abandonment, and neglect in the community.

175 (j) Child protection team assessments that include, as
176 appropriate, medical evaluations, medical consultations, family
177 psychosocial interviews, specialized clinical interviews, or
178 forensic interviews.

179
180 ~~All medical personnel participating on a child protection team~~
181 ~~must successfully complete the required child protection team~~
182 ~~training curriculum as set forth in protocols determined by the~~



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183 ~~Deputy Secretary for Children's Medical Services and the~~
184 ~~Statewide Medical Director for Child Protection.~~ A child
185 protection team that is evaluating a report of medical neglect
186 and assessing the health care needs of a medically complex child
187 shall consult with a physician who has experience in treating
188 children with the same condition.

189 (4) ~~(2)~~ The child abuse, abandonment, and neglect reports
190 that must be referred by the department to child protection
191 teams of the Department of Health for an assessment and other
192 appropriate available support services as set forth in
193 subsection (3) ~~(1)~~ must include cases involving:

194 (a) Injuries to the head, bruises to the neck or head,
195 burns, or fractures in a child of any age.

196 (b) Bruises anywhere on a child 5 years of age or under.

197 (c) Any report alleging sexual abuse of a child.

198 (d) Any sexually transmitted disease in a prepubescent
199 child.

200 (e) Reported malnutrition of a child and failure of a
201 child to thrive.

202 (f) Reported medical neglect of a child.

203 (g) Any family in which one or more children have been
204 pronounced dead on arrival at a hospital or other health care
205 facility, or have been injured and later died, as a result of
206 suspected abuse, abandonment, or neglect, when any sibling or
207 other child remains in the home.

208 (h) Symptoms of serious emotional problems in a child when



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209 emotional or other abuse, abandonment, or neglect is suspected.

210 (5)~~(3)~~ All abuse and neglect cases transmitted for
211 investigation to a district by the hotline must be
212 simultaneously transmitted to the Department of Health child
213 protection team for review. For the purpose of determining
214 whether face-to-face medical evaluation by a child protection
215 team is necessary, all cases transmitted to the child protection
216 team which meet the criteria in subsection (4) ~~(2)~~ must be
217 timely reviewed by:

218 (a) A physician licensed under chapter 458 or chapter 459
219 who holds board certification in pediatrics and is a member of a
220 child protection team;

221 (b) A physician licensed under chapter 458 or chapter 459
222 who holds board certification in a specialty other than
223 pediatrics, who may complete the review only when working under
224 the direction of a physician licensed under chapter 458 or
225 chapter 459 who holds board certification in pediatrics and is a
226 member of a child protection team;

227 (c) An advanced registered nurse practitioner licensed
228 under chapter 464 who has a specialty in pediatrics or family
229 medicine and is a member of a child protection team;

230 (d) A physician assistant licensed under chapter 458 or
231 chapter 459, who may complete the review only when working under
232 the supervision of a physician licensed under chapter 458 or
233 chapter 459 who holds board certification in pediatrics and is a
234 member of a child protection team; or



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235 (e) A registered nurse licensed under chapter 464, who may
236 complete the review only when working under the direct
237 supervision of a physician licensed under chapter 458 or chapter
238 459 who holds certification in pediatrics and is a member of a
239 child protection team.

240 (6)~~(4)~~ A face-to-face medical evaluation by a child
241 protection team is not necessary when:

242 (a) The child was examined for the alleged abuse or
243 neglect by a physician who is not a member of the child
244 protection team, and a consultation between the child protection
245 team board-certified pediatrician, advanced registered nurse
246 practitioner, physician assistant working under the supervision
247 of a child protection team board-certified pediatrician, or
248 registered nurse working under the direct supervision of a child
249 protection team board-certified pediatrician, and the examining
250 physician concludes that a further medical evaluation is
251 unnecessary;

252 (b) The child protective investigator, with supervisory
253 approval, has determined, after conducting a child safety
254 assessment, that there are no indications of injuries as
255 described in paragraphs (4) (a) - (h) ~~(2) (a) - (h)~~ as reported; or

256 (c) The child protection team board-certified
257 pediatrician, as authorized in subsection (5) ~~(3)~~, determines
258 that a medical evaluation is not required.

259
260 Notwithstanding paragraphs (a), (b), and (c), a child protection



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261 team pediatrician, as authorized in subsection (5) ~~(3)~~, may
262 determine that a face-to-face medical evaluation is necessary.

263 (7) ~~(5)~~ In all instances in which a child protection team
264 is providing certain services to abused, abandoned, or neglected
265 children, other offices and units of the Department of Health,
266 and offices and units of the Department of Children and
267 Families, shall avoid duplicating the provision of those
268 services.

269 (8) ~~(6)~~ The Department of Health child protection team
270 quality assurance program and the Family Safety Program Office
271 of the Department of Children and Families shall collaborate to
272 ensure referrals and responses to child abuse, abandonment, and
273 neglect reports are appropriate. Each quality assurance program
274 shall include a review of records in which there are no findings
275 of abuse, abandonment, or neglect, and the findings of these
276 reviews shall be included in each department's quality assurance
277 reports.

278 Section 3. Paragraph (c) is added to subsection (2) of
279 section 458.3175, Florida Statutes, to read:

280 458.3175 Expert witness certificate.—

281 (2) An expert witness certificate authorizes the physician
282 to whom the certificate is issued to do only the following:

283 (c) Provide expert testimony in criminal child abuse and
284 neglect cases in this state.

285 Section 4. Paragraph (c) is added to subsection (2) of
286 section 459.0066, Florida Statutes, to read:



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287 459.0066 Expert witness certificate.—

288 (2) An expert witness certificate authorizes the physician
289 to whom the certificate is issued to do only the following:

290 (c) Provide expert testimony in criminal child abuse and
291 neglect cases in this state.

292 Section 5. Paragraph (c) of subsection (14) of section
293 39.301, Florida Statutes, is amended to read:

294 39.301 Initiation of protective investigations.—

295 (14)

296 (c) The department, in consultation with the judiciary,
297 shall adopt by rule:

298 1. Criteria that are factors requiring that the department
299 take the child into custody, petition the court as provided in
300 this chapter, or, if the child is not taken into custody or a
301 petition is not filed with the court, conduct an administrative
302 review. Such factors must include, but are not limited to,
303 noncompliance with a safety plan or the case plan developed by
304 the department, and the family under this chapter, and prior
305 abuse reports with findings that involve the child, the child's
306 sibling, or the child's caregiver.

307 2. Requirements that if after an administrative review the
308 department determines not to take the child into custody or
309 petition the court, the department shall document the reason for
310 its decision in writing and include it in the investigative
311 file. For all cases that were accepted by the local law
312 enforcement agency for criminal investigation pursuant to



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313 subsection (2), the department must include in the file written
314 documentation that the administrative review included input from
315 law enforcement. In addition, for all cases that must be
316 referred to child protection teams pursuant to s. 39.303(4) and
317 (5) ~~39.303(2) and (3)~~, the file must include written
318 documentation that the administrative review included the
319 results of the team's evaluation.

320 Section 6. Paragraphs (a) and (b) of subsection (3) of
321 section 827.03, Florida Statutes, are amended to read:

322 827.03 Abuse, aggravated abuse, and neglect of a child;
323 penalties.—

324 (3) EXPERT TESTIMONY.—

325 (a) Except as provided in paragraph (b), a physician may
326 not provide expert testimony in a criminal child abuse case
327 unless the physician is a physician licensed under chapter 458
328 or chapter 459 or has obtained certification as an expert
329 witness pursuant to s. 458.3175 or s. 459.0066.

330 (b) A physician may not provide expert testimony in a
331 criminal child abuse case regarding mental injury unless the
332 physician is a physician licensed under chapter 458 or chapter
333 459 who has completed an accredited residency in psychiatry or
334 has obtained certification as an expert witness pursuant to s.
335 458.3175 or s. 459.0066.

336 Section 7. For the purpose of incorporating the amendments
337 made by this act to section 39.303, Florida Statutes, in a
338 reference thereto, section 39.3031, Florida Statutes, is



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339 reenacted to read:

340 39.3031 Rules for implementation of s. 39.303.—The
 341 Department of Health, in consultation with the Department of
 342 Children and Families, shall adopt rules governing the child
 343 protection teams pursuant to s. 39.303, including definitions,
 344 organization, roles and responsibilities, eligibility, services
 345 and their availability, qualifications of staff, and a waiver-
 346 request process.

347 Section 8. For the purpose of incorporating the amendments
 348 made by this act to section 39.303, Florida Statutes, in a
 349 reference thereto, subsection (2) of section 391.026, Florida
 350 Statutes, is reenacted to read:

351 391.026 Powers and duties of the department.—The
 352 department shall have the following powers, duties, and
 353 responsibilities:

354 (2) To provide services to abused and neglected children
 355 through child protection teams pursuant to s. 39.303.

356 Section 9. This act shall take effect July 1, 2015.