

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1381 Treatment Programs

**SPONSOR(S):** Children, Families & Seniors Subcommittee, Moraitis, Jr.

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	11 Y, 0 N, As CS	Tuszynski	Brazzell
2) Health & Human Services Committee	13 Y, 0 N	Tuszynski	Calamas

### SUMMARY ANALYSIS

Residential treatment centers for children and adolescents (RTC) are licensed by AHCA under s. 394.875, F.S. The purpose of an RTC is to provide mental health assessment and treatment services to children and adolescents who are experiencing an acute mental or emotional crisis, have a serious emotional disturbance or mental illness, or have an emotional disturbance.

Statute creates a joint regulatory structure in which DCF, in consultation with AHCA, adopts rules governing RTCs that specify licensure standards for admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraints and time-out; rights of patients; use of psychotropic medications; and standards for the operation of such facilities. AHCA then uses these standards to issue licenses for RTCs.

An AHCA rule states that a medical director must be a licensed psychiatrist that is either on staff or contracted, but on call 24 hours a day, 7 days a week. While AHCA rules delineate staff qualifications, neither the statute nor the rules impose any requirements or restrictions on RTC ownership.

CS/HB 1381 amends s. 394.875, F.S., to require that the ownership, management, and administration of an RTC licensed under that section not be restricted to physicians licensed pursuant to chs. 458 or 459, F.S. The bill also codifies a staffing requirement from rule into statute that a medical director of an RTC licensed under that section is not required to be on staff and may be contracted, but must be on call 24 hours a day, 7 days a week.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Current law provides for a variety of residential programs for persons with emotional maladies, substance abuse dependencies, and developmental disabilities. Multiple state agencies have responsibility for establishing and enforcing regulatory standards for these programs, including the Department of Children and Families (DCF), the Agency for Health Care Administration (AHCA), and the Agency for Persons with Disabilities (APD).

Mental health residential treatment centers are licensed by AHCA under s. 394.875, F.S., and include residential treatment centers for children and adolescents (RTC).<sup>1</sup>

#### Residential Treatment Centers for Children and Adolescents

The purpose of a residential treatment center for children and adolescents is to provide mental health assessment and treatment services to children and adolescents who are experiencing an acute mental or emotional crisis, have a serious emotional disturbance or mental illness,<sup>2</sup> or have an emotional disturbance.<sup>3,4</sup> Children may be admitted through the mental health system or through the protective custody provisions in ch. 39, F.S.<sup>5</sup>

A license issued by AHCA is required in order to operate or act as RTC.<sup>6</sup> Florida law creates a joint regulatory structure in which DCF, in consultation with AHCA, adopts rules governing RTCs that specify licensure standards for admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraints and time-out; rights of patients; use of psychotropic medications; and standards for the operation of such facilities.<sup>7</sup> AHCA then uses these standards to issue licenses for RTCs.

AHCA and DCF may both enter and inspect any licensed facility and access clinical records of any client to determine compliance with applicable laws and rules and may inspect unlicensed premises with the permission of the person in charge or pursuant to a warrant.<sup>8</sup>

Currently there are 32 licensed RTCs operating in Florida.<sup>9</sup>

#### *Staffing Requirements*

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<sup>1</sup> "Child" means a person from birth until the person's 13th birthday. See s. 394.492(3), F.S. "Adolescent" means a person who is at least 13 years of age but under 18 years of age. See s. 394.492(1), F.S.

<sup>2</sup> Section 394.492(6), F.S., defines "Child or adolescent who has a serious emotional disturbance or mental illness" to mean a person under 18 years of age who is diagnosed as having a mental, emotional, or behavioral disorder that meets one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association; and exhibits behaviors that substantially interfere with or limit his or her role or ability to function in the family, school, or community, which behaviors are not considered to be a temporary response to a stressful situation. The term includes a child or adolescent who meets the criteria for involuntary placement under s. 394.467(1).

<sup>3</sup> Section 394.492(5), F.S. defines "Child or adolescent who has an emotional disturbance" to mean a person under 18 years of age who is diagnosed with a mental, emotional, or behavioral disorder of sufficient duration to meet one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, but who does not exhibit behaviors that substantially interfere with or limit his or her role or ability to function in the family, school, or community. The emotional disturbance must not be considered to be a temporary response to a stressful situation. The term does not include a child or adolescent who meets the criteria for involuntary placement under s. 394.467(1).

<sup>4</sup> Section 394.875(1)(c), F.S.

<sup>5</sup> Rule chapter 65E-9, F.A.C.

<sup>6</sup> Section 394.875(2), F.S.

<sup>7</sup> See Section 394.875(8), F.S., and Chapters 65E-9, and 65G-2, F.A.C.

<sup>8</sup> Section 394.90(1) and (2), F.S.

<sup>9</sup> Agency for Health Care Administration, FloridaHealthFinder, *Facility/Provider Locator*, accessible at:

<http://www.floridahealthfinder.gov/facilitylocator/FacilitySearch.aspx> (last accessed 1/22/2016).

Section 394.875(8), F.S., directs DCF, in consultation with AHCA, to adopt rules governing RTCs, including staffing requirements for licensure. The adopted rule on staffing requires:<sup>10</sup>

- A board certified Psychiatrist, licensed pursuant to ch. 458, F.S., on staff or under contract, as a medical director to be on call 24 hours-a-day, seven days a week;
- An agreement with a pediatrician, family care physician, medical group or prepaid health plan to provide primary medical coverage to children in the facility.
- A registered nurse;
- At least one licensed psychologist on staff or under contract;
- At least two direct care staff; and
- A certified behavior analyst, a master's level practitioner, or professionals licensed under chapter 490 or 491, F.S., with training in behavior-management-program design and implementation, on staff or under contract, if the program includes behavior analysis services.
- The administrator of the program must have a master's degree in administration or be of a professional discipline such as social work, psychology, counseling, or special education and have at least two years administrative experience.<sup>11</sup>

While AHCA rules delineate staff qualifications, neither the statute nor the rules impose any requirements or restrictions on RTC ownership.

### **Effect of Proposed Changes**

CS/HB 1381 amends s. 394.875, F.S., to require that the ownership, management, and administration of an RTC licensed under that section not be restricted to physicians licensed pursuant to chs. 458 or 459, F.S. The bill also codifies a staffing requirement from rule into statute that a medical director of an RTC licensed under that section is not required to be on staff and may be contracted, but must be on call 24 hours a day, 7 days a week.

The bill provides an effective date of July 1, 2016.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 394.875, F.S., relating to crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; authorized services; license required.

**Section 2:** Provides for an effective date of July 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

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<sup>10</sup> Rule 65E-9.007, F.A.C.

<sup>11</sup> Rule 65E-9.007(4)(a), F.A.C.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**