Office of Regulatory Management

Economic Review Form

Agency name	Department of Behavioral Health and Developmental Services (DBHDS)
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC35-105 12VAC35-115
VAC Chapter title(s)	Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services ("Licensing Regulations") Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services ("Human Rights Regulations")
Action title	Amendments to ensure that licensing and human rights regulations support high-quality mental health services
Date this document prepared	May 14, 2024
Regulatory Stage (including Issuance of Guidance Documents)	Final Exempt

Cost Benefit Analysis

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	The 2024 General Assembly Session passed SB569, requiring the State Board of Behavioral Health and Developmental Services to amend its licensing and human rights regulations to support high-quality crisis services in crisis receiving centers and crisis stabilization units. Specific authorizations were made for the appropriate and safe use of seclusion in those settings. The current Licensing Regulations do not sufficiently serve individuals who receive crisis services, as specific distinctions for crisis providers are not in place. The amendments will help to ensure that individuals in crisis are matched with the appropriate level of care that is tailored to meet their needs safely and effectively at that time.

	In Chapter 105, a new section is added, VIII. Crisis Services, with amendments that are tailored specifically to crisis receiving centers (CRCs), community-based crisis stabilization, crisis stabilization units (CSUs), and regional education assessment crisis services habilitation (REACH) providers. In Chapter 115, amendments are made regarding seclusion practices within crisis receiving centers and crisis stabilization units. An individual's safety plan or crisis individualized services plan (crisis ISP) are created to be possible locations for required documentation. The following regulatory changes are expected to result in a direct monetary cost or benefit: Direct Costs: CRCs must be staffed with a licensed psychiatrist or nurse practitioner available to the program 24 hours per day/7 days per week, a licensed mental health professional (LMHP) available for conducting assessments, and an RN for providing nursing assessments. Community-based crisis stabilization must be staffed with an LMHP. CSUs must be staffed with a licensed psychiatrist or nurse practitioner, an LHMP, and an RN. Below includes average salaries + fringe for the staffing needed: (2) Licensed nurse practitioner average salary + fringe in VA = $146,610; totaling $292,420. (3) LMHP average salary + fringe in VA = $70,390; totaling $211,170. (2) RN average salary + fringe in VA = $107,700; totaling $215,400. Direct Benefits: There are not expected to be any direct or indirect monetary benefits with these changes in regulations.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $718,990	(b) $0
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)	The following regulatory changes are expected to result in a non-monetary cost or benefit to the department:	

	New definitions and clarifications for community-based crisis stabilization, crisis education and prevention plan (CEPP), crisis planning team, CRC, CSU, mobile crisis response, and REACH are provided. • Cost: None. • Benefit: Providers, individuals receiving services, families of individuals receiving services, and the public will be better able to have an understanding of the different crisis services and the expectations of each service. In Part III of the Licensing Regulations involving the physical environment, the physical environment of individuals receiving services including regulations on beds, conditions of beds, and lighting do not apply to crisis services, as crisis services must conform with Part VIII of these regulations. • Cost: None. • Benefit: Older regulations that do not currently serve the necessary requirements for crisis services are replaced with more current, updated language. In Part IV of the Licensing Regulations involving services and supports, regulations on assessment policies, ISPs, and discharge do not apply to crisis services, as crisis services must comply to Part VIII of these regulations. The section involving crisis intervention and emergencies (medical management) including physical examinations and vital signs do not apply to crisis services, as crisis services must comply with Part VIII • Cost: None. • Benefit: Older regulations that do not currently serve the necessary requirements for crisis services are replaced with more current, updated language. Regarding crisis assessments, providers must provide documentation in their crisis assessments and will need to: -Identify qualified employees or contractors who can obtain, conduct, and update assessments and medical screenings. -Obtain previous assessments and relevant historical information related to the crisis. -Make the assessment an ongoing activity by utilizing historical information as guidance for treatment. -Use state or federally sanctioned crisis assessment tools or their own tool which meets the requirements of the regulations.

	-Initiate a crisis assessment prior to admission that includes all aspects of the individual's health and safety needs, risk of harm, cognitive status, presenting needs, current medications, cultural considerations, etc. • Benefit: As the crisis assessment is specifically tailored to the crisis setting, it is a lesser administrative burden on crisis providers than the current assessment requirement, which does not allow an exception for crisis providers. • Cost: Administrative duty of including detail in the crisis assessment. Safety plans and crisis ISPs will include non-monetary costs for providers in that providers must: -Actively involve the individual and authorized representative in the development, review, and revision of a person-centered safety plan and if appropriate, in the crisis ISP. -Collaborate with the individual's support coordinator for development, implementation, and review of the CEEP within 15 days of admission and updated CEEP within 45 days. -Develop, review, or revise the safety plan immediately after admission until discharge as well as the crisis ISP within 48 hours of admission if appropriate to the service type. -Develop safety plans and crisis ISPs based on the crisis assessment with the participation and informed choice of the individual receiving services. • Benefit: The safety planning and crisis ISP process is specifically tailored to the crisis setting and is a lesser administrative burden on crisis providers than the current ISP requirement, which does not allow for exemption for crisis providers. • Cost: Providers have time restraints within which they must develop and review CEEPs, safety plans, and crisis ISPs. Crisis providers providing mobile crisis and CRCs are now exempt from the discharge planning process and instead are required to make referrals to follow up service providers. Crisis discharge planning will result in non-monetary costs for community-based crisis stabilization providers, CSUs, and REACH providers in that they must: -Have written discharge policies and procedures that include medical and clinical criteria for discharge. -Provide discharge instructions to the individual and the authorized representative, if applicable. -Provide documentation in the individual's service record about family member involvement in the discharge planning process.

	-Within 30 days complete a written discharge summary that includes aspects such as the reason for the individual's discharge, current level of functioning, recommended activities, etc. -Ensure that the content of the discharge summary and the determination to discharge the individual is consistent with the crisis ISP and the criteria for discharge. • Benefit: Lessens the administrative burden on providers providing mobile crisis and CRCs. • Cost: None. The discharge planning process is unchanged except that exceptions for providers when the process is not appropriate. Regarding nursing assessments, community-based crisis stabilization providers are not required to administer nursing assessments. Individuals receiving services in CRCs, CSUs, and REACH CTH are required to be screened for communicable diseases and a staff member must conduct a nursing assessment. All aspects of the individual's non-psychiatric medical or surgical condition must be evaluated to determine if there is a current medical crisis or underlying medical condition that is contributing to the individual's psychological crisis. • Benefit: Currently, residential providers are required to conduct a physical examination by a qualified practitioner. Crisis providers struggle to find physicians to conduct physical examinations in the time frame crisis services need to be administered. This requirement loosens that burden and provides an exemption for community-based crisis stabilization providers who will not be required to administer nursing assessments. • Cost: None. Taking vital signs for crisis services applies to CRCs, CSUs, and REACH CTH providers. These providers must have procedures for the collection of vital signs and documentation for follow-up actions. • Benefit: Ensures that each individual's basic medical status is monitored for stability. • Cost: Providers of these crisis services must take vital signs and provide documentation. Bedrooms must meet certain square footage requirements and must be free of protrusions, sharp corners, hardware, fixtures, or other devices that may cause injury to the individual. Privacy and personal space elements must be ensured for the individual, such as the rooms having doors and being conducive for sleep and rest. Residential providers

	currently have requirements related to bedrooms within the Licensing Regulations, the provisions here are more specific to a crisis setting. • Benefit: Individuals receiving services will be equipped with bedrooms that are safe, private, and with adequate room for personal space. • Cost: None. The physical environment where crisis services are being implemented must: be clean, well-maintained, promote mobility, properly heated or cooled, and private It must also have proper bathroom elements such as toilets, sinks, and bathtubs. Residential providers currently have physical environment requirements; the provisions here are more specific to a crisis setting. • Benefit: Individuals receiving services will have environments conducive to cleanliness, proper mobility access, and the appropriate items needed for toileting and bathing • Cost: None. Seclusion must only occur as permitted by the Human Rights Regulations. The room for seclusion must be safe without sharp protrusions or things that may cause injury, be appropriately heated and cooled, have washable mattresses, and be visible through the locked door. • Benefit: Individuals receiving services will only be secluded if necessary. Seclusion rooms will help to ensure seclusion is done safely. • Cost: None. Seclusion may only be used in an emergency situation in facilities operated by the department, residential facilities for children, inpatient hospitals, and CRCs and CSUs that are licensed under Part VIII of the Licensing Regulations. Seclusion or restraint practices must not be used unless other less restrictive techniques were considered and documentation is placed in the individual's safety plan or crisis ISP. • Benefit: Expanding the use of seclusion to CRCs and CSUs will allow them to accept individuals with higher acuity, thus allowing those individuals to be treated in a less restrictive setting. Seclusion practices will be only in emergency situations as needed; other less restrictive practices must be used prior to resorting to seclusion. • Cost: None.

(5) Information Sources	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	The amendments to the Licensing Regulations and the Human Rights Regulations outline new regulations related to documentation by providers, safety and emergency preparedness planning, policies for recordkeeping, organizational structure of personnel serving individuals, medication planning, clarification of existing regulation, and clarity regarding seclusion and restraint practices. Under the current regulations, policies regarding these items may not be as clearly understood or in the best interest for the care of individuals receiving crisis services. Direct Costs: None. Indirect Costs: None. Direct Benefits: None. Indirect Benefits: None.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)	Individuals receiving services will not be treated with the proper requirements conducive to their health, safety, and welfare during crisis situations. Providers will not be able to provide the necessary care, documentation, and planning for individuals in crisis. The current Licensing Regulations require documentation within timelines that are not conducive to crisis events and do not allow exceptions for crisis. The requirements may cause providers to create documentation “for documentation’s sake” after an individual is discharged to fulfill regulatory requirements or may distract a provider from the best care in order to fulfill documentation requirements. Without the opportunity to utilize seclusion when necessary, individuals may be more likely to be admitted to locked inpatient facilities (more restrictive and more expensive settings) when experiencing crisis.	
(5) Information Sources		

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: None Indirect Costs: The alternative approaches to these regulatory amendments include not implementing regulatory changes or clarifications, thus leaving providers, individuals receiving services, and their families with regulations that are not updated or in the best interest for the care of individuals receiving services. Alternatively, without appropriate staffing for medical assessments, appropriate care of individuals would not be possible. The current Licensing Regulations require documentation and documentation timelines that are not conducive to crisis events and do not allow exceptions for crisis. The requirements may cause providers to create documentation "for documentation's sake" after an individual has been discharged to fulfill regulation requirements or may distract a provider from the best care in order to fulfil documentation requirements. Without the opportunity to utilize seclusion when necessary, individuals may be more likely to be admitted to locked inpatient facilities when experiencing crisis. Direct Benefits: None. Indirect Benefits: None.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Net Monetized Benefit		
(4) Other Costs & Benefits (Non-Monetized)		
(5) Information Sources		

<u>Impact on Local Partners</u>

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs &	No monetary costs or benefits to local partners are expected as a result of new regulations.

Benefits (Monetized)	Direct Costs: None. Indirect Costs: None. Direct Benefits: None. Indirect Benefits: None.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)	No non-monetary costs or benefits to local partners are expected as a result of new regulations.	
(4) Assistance		
(5) Information Sources		

Impacts on Families

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	No monetary costs or benefits to families are expected as a result of new regulations. Direct Costs: None. Indirect Costs: None. Direct Benefits: The expected positive non-monetary benefit is that family members experiencing a crisis will be more likely to receive services at the most appropriate level of care to meet their needs safely and effectively at that time. Indirect Benefit: None.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits

	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)	No non-monetary costs or benefits to families are expected as a result of new regulations.	
(4) Information Sources		

<u>Impacts on Small Businesses</u>

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	No monetary costs or benefits to small businesses are expected as a result of new regulations. Direct Costs: None. Indirect Costs: None. Direct Benefits: None. Indirect Benefits: None.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)	No non-monetary costs or benefits to small businesses are expected as a result of new regulations.	
(4) Alternatives		
(5) Information Sources		

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
	(M/A):				
	(D/A):				
1830; 1840; 1850; 1860; 1870; 1180; 1890; 1990; 1910; 1920; 1930; 1940; 1950	**(M/R):** SB569 (to ensure that licensing and human rights regulations **support high-quality crisis services**, including authorizing the appropriate and safe use of seclusion in CRCs and CSUs).	**n/a**	377		377
280; 330; 350; 360; 370; 380; 650; 660; 665; 693; 740; 1120	**(D/R):**	**133**	0	-133	-133
				Grand Total of Changes in Requirements:	**(M/A):**
					(D/A):
					(M/R): 377
					(D/R):-133