



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-135-10 et seq.
Regulation Title:	Treatment Foster Care Standards for Child-Placing Agencies
Action Title:	Establish Regulation
Date:	October 16, 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

This regulation specifically addresses treatment foster care services provided by licensed child-placing agencies. Providers of treatment foster care are currently regulated by two different sets of regulations, the Minimum Standards for Licensed Private Child-Placing Agencies, 22 VAC 40-130-10 promulgated by the State Board of Social Services and Case Management Treatment Foster Care Services, 12 VAC 30-130-900 through 12 VAC 30-130-1000, promulgated by the Department of Medical Assistance Services. This regulation will consolidate these two sets of regulations into one in order to streamline the department's regulatory oversight of agencies providing these services and make the regulation easier to follow. Having one regulation will make the licensure and certification process more efficient. The new regulation will apply to all licensed child placing agencies that wish to provide treatment foster care services, whether or not they apply for certification as a Medicaid enrolled provider of treatment foster care case management services and to localities who elect to apply for licensing certification. This regulation is necessary to protect the safety and welfare of children and families receiving services from these agencies and to ensure a minimum level of quality to the care and services provided by the agencies. The regulation enables agencies to become certified to receive reimbursement for treatment foster case management services through Medicaid. The citizens of the Commonwealth and the local public departments of social services usually pay fees for

services from these agencies. These individuals and agencies rely on the licensing authority to regulate the agencies, monitor the safety and welfare of children placed with the licensed agencies and provide certification for eligibility to receive Medicaid reimbursement for treatment foster care case services. The new regulation will provide clarification and reduce confusion regarding certification and eligibility for Medicaid reimbursement of treatment foster care case management services. Certification will allow agencies to access an alternative funding source.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The statutory mandate for promulgating this regulation is found in § 63.1-202 of the Code of Virginia (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+63.1-202>). This statute requires the State Board of Social Services to promulgate regulations for the activities, services and facilities of persons or agencies required to be licensed and to design the regulation to ensure that they are conducive to the welfare of the children under the custody or control of such persons or agencies. The statute requires that the regulations include matters relating to the sex, age, and number of children to be cared for, the buildings and premises to be used, and reasonable standards for the activities and services provided to the children. Treatment foster care is one of the services provided to children through licensed child-placing agencies.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The new regulation will consolidate two separate sets of regulations. This new regulation will meet the requirements of all new federal and state legislation since 2000. Several important criteria will be included to evaluate when making a decision to approve a family for treatment foster care. To comply with the Multiethnic Placement Act, standards will be included stating that placement decisions for children may not be based solely on race. Standards will be included to cover staff training, foster home placement agreements and the scope and applicability of this regulation. Certain information will be required prior to admission of the child. Requirements for maintaining confidentiality will be delineated. Agencies will be required to collect data on and periodically evaluate their programs and services.

These standards are considered crucial since the licensed agencies make decisions that have a life-long impact on a child. The Minimum Standards for Licensed Private Child-Placing

Agencies do not address requirements for treatment foster care, staff training or foster parent orientation and training. The Department now certifies qualified child-placing agencies to provide treatment foster care case management services to foster children based on the regulation of the Department of Medical Assistance Services since the Department of Social Services does not have a regulation covering treatment foster care services.

Summary: The proposed regulation will blend the two different regulations currently being used and will include requirements for:

- ? Initial and renewal applications;
- ? Organization and administration of the agency;
- ? Board members who are also foster parents with the same agency;
- ? Financial responsibilities including ratio of assets and auditing criteria;
- ? Maintaining a professional staff and office in Virginia where children are placed;
- ? Office conditions, posting of the license and inspections;
- ? Compliance with the standards;
- ? Disclosure of information;
- ? Policies and procedures;
- ? Program description;
- ? Periodic program evaluation;
- ? Job descriptions and personnel records;
- ? Medicaid funded treatment foster care;
- ? Intake and assessment processes in treatment foster care;
- ? Staff qualifications, training and on-going staff development;
- ? The organization of service plans and progress reports required in treatment foster care;
- ? Documentation;
- ? Time frames for completing required documentation of service plans, progress reports and discharge planning;
- ? Smaller caseloads;
- ? Certain exceptions for emergency and short-term placements;
- ? Information required in social histories for children;
- ? Consultation and notification to the public agencies placing children;
- ? Supervision of children;
- ? Maintaining confidentiality of a child's record;
- ? The storage and retention of records;
- ? Electronically sharing and or storing of information;
- ? Policies and procedures regarding behavior management;
- ? Foster home placement agreements;
- ? Placement and pre-placement visits;

- ? Medical and dental information, routine examinations and care;
- ? Comprehensive Individual Plan of Care with target goals and objectives, progress reports and discharge plan;
- ? Scheduled visitation and face-to-face contact with the child;
- ? Clothing and allowance requirements;
- ? The composition and qualifications for the treatment team;
- ? Crisis intervention and physical restraint policies;
- ? Comprehensive discharge planning and discharge summary information;
- ? Treatment foster care for children placed in permanent foster care;
- ? The treatment foster home study;
- ? The treatment foster home capacity;
- ? Treatment foster family orientation and training including pre-service training and ongoing training;
- ? Periodic re-evaluation of the treatment foster homes including the child's adjustment, progress and the treatment parent's level of skills;
- ? Treatment foster home records;
- ? Respite care;
- ? Placement of children from out-of-state and agency responsibilities;
- ? Reports to the Virginia Department of Social Services;
- ? Reporting abuse, neglect or death of a child.

Overall, the proposed regulation recognizes the current practice of treatment foster care agencies in Virginia.

Issues: Using two separate regulations is very confusing to providers and hinders their ability to remain in compliance with the standards.

The scope of authority and responsibility given to licensed child-placing agencies is extensive. Once a license is issued to an agency authorizing it to provide these services, it may take legal custody of children, make permanent plans for their future, approve foster homes to care for these children, and offer a number of services to assist the children and their families. These are serious responsibilities. The department accepts a great responsibility in making the decision to license a child-placing agency that provides treatment foster care services. Children need the department's oversight and supervision through licensing visits and through standards that will establish expectations for the care and services they receive.

Additional advantages of the proposed regulation are:

Increased requirements for service plans for children, increased planning for comprehensive discharge for children and increased involvement of families when the goal is reunification of child and family.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

One alternative would be to continue to regulate child placing agencies with two different sets of standards: one promulgated by the Department of Social Services and one promulgated by the Department of Medical Assistance Services. Developing this regulation will clarify and streamline the regulatory process and help alleviate duplicative requirements of state and federal programs. Agencies have requested that a simplified, comprehensive, regulation for treatment foster care services be developed.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

- * Families will benefit from the availability of these private resources and from the knowledge that the state has established regulations to offer a minimal level of protection for them;
- * The child-placing agencies will benefit by having the services they offer given a higher level of credibility and accountability; and
- * Local departments of social services will benefit by knowing that the private child-placing agencies are regulated and held accountable for the services they provide to children in treatment foster care.

There are no disadvantages to the public or the Department in implementing this regulation.

Estimated Impact: The new regulation will impact 22 licensed private child-placing agencies operating in Virginia and any local department of social services that applies to be a certified provider of Medicaid funded treatment foster care case management services. Currently no local department has applied for certification.

The new regulation will not impact the Department's licensing responsibility for private licensed agencies since staffing is currently in place to license these agencies. This regulation will not encourage or discourage economic self-sufficiency, self-pride, and the assumption of

responsibility for one-self, one's spouse, and one's children. This regulation does not strengthen or erode the marital commitment, and it does not increase or decrease disposable family income.