

Office of Regulatory Management
Economic Review Form

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| Agency name | Department of Behavioral Health and Developmental Services |
| Virginia Administrative Code (VAC) Chapter citation(s) | 12 VAC 35-46 |
| VAC Chapter title(s) | Regulations for Children's Residential Facilities |
| Action title | Amendments to align with the Family First Prevention Service Act (FFPSA) (proposed stage) |
| Date this document prepared | September 27, 2022 (finalized) |

Cost Benefit Analysis

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

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| (1) Direct Costs & Benefits | <ul style="list-style-type: none"> • A QRTP shall have registered or licensed nursing staff and other licensed clinical staff who: 1) Provide care within the scope of their practice as defined by state law; 2) Are on-site according to the treatment model referred to in subsection A; and 3) Are available 24 hours a day and seven days a week. The QRTP is not required to acquire nursing or other clinical staff solely through means of a direct employer to employee relationship. <p>Direct Costs: This regulatory change creates cost for providers through additional staffing requirements. This regulatory action allows for flexibility in the way a provider chooses to meet this requirement.¹ A provider could directly employ licensed nursing and clinical staff in a 24/7 capacity, a provider could contract with an agency to ensure that providers are available on-call 24/7 and are able to be dispatched on-site if needed, or a combination of direct employment and contract agreements. While costs to providers will vary depending on the employment arrangement chosen, the cost of meeting this requirement through direct employment of an LPN and Nursing Assistant is \$537,258 per provider per year, the cost impact for all 15 providers for this service is estimated to be \$8,058,870.</p> <p>Direct Benefits: This regulatory action aligns QRTPs with a trauma informed treatment model. In theory, the use of a trauma informed model should improve outcomes for children placed in QRTPs. Improved outcomes may include the reunification of a child with their family in the family home setting and a reduction in traumatic events</p> |
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¹ In response to a comment received at the Emergency/NOIRA stage, DBHDS clarified that after care may be provided in-person or through an on-call arrangement.
https://townhall.virginia.gov/L/GetFile.cfm?File=65\5849\9581\AgencyStatement_DBHDS_9581_v4.pdf

experienced by the child. Research has shown that traumatic events can result in long term behavioral health and chronic physical health conditions.² The avoidance of such health conditions is likely to result in cost savings to the Commonwealth, as well as to the individual, as the cost of future treatment would be prevented, and the individual would be less likely to suffer disruptions in employment associated with poor mental and physical well-being. Additional data is needed on the impact that this trauma informed model has on these outcomes, therefore, **an exact benefit cannot be calculated at this time.**

- **The QRTP shall facilitate outreach to the family members of the child, including siblings, document how the outreach is made, including contact information, and maintain contact information for any known biological family and fictive kin of the child. Documentation of outreach to family members and contact information of family members shall be placed within the child's record at the QRTP. The QRTP shall document how family members are integrated into the treatment process for the child, including after discharge, and how sibling connections are maintained. Documentation of family member integration shall be placed within the child's record at the QRTP. The QRTP shall provide or ensure discharge planning and family-based aftercare support for at least six months following discharge.**

Direct Costs: This regulatory action does not specify the method by which QRTPs shall facilitate and document outreach to family members. It may be possible for a QRTP provider to meet the outreach, documentation, care integration, and discharge planning requirements through existing staff resources. For the purposes of this cost benefit analysis, we assume that additional resources of an administrative assistant and a social worker are needed to meet this requirement. The estimated cost of employing a full-time administrative assistant and full-time social worker is \$124,494 per QRTP, or **\$1,897,410** across all 15 QRTPs licensed by this regulation.

Direct Benefits: FFPSA was enacted with the intent to avoid unnecessary separation of children from their families and provide parents and family with the services needed to maintain in-home placement.³ Providing outreach and care coordination services to the family members of children placed in QRTPs is intended to increase the likelihood that a family can be reunited after a child has received treatment. Decreasing the number of children in a foster care or

² <https://www.samhsa.gov/trauma-violence>

³ <https://familyfirstact.org/about-law>

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| | <p>congregate care settings is likely to create economic benefits for the Commonwealth and the Federal government, as it will reduce the number of children for which the government provides maintenance payments. For example, foster parents receive a Standard Maintenance Payment to offset the costs of caring for a child. The amount of the payment is variable to the child age, unique needs, and other factors. The average stipend is roughly \$603.66 per month.⁴ There are approximately 5,400 children in foster care system in Virginia.⁵ If FFPSA results in a 10% reduction in the number of children placed in foster care, Virginia and the Federal government can expect to share savings of \$3,911,716 a year (540 children x \$603.33/month x 12 months). However, FFPSA has not been enacted long enough for sufficient data to be collected about these outcomes, therefore, an exact benefit cannot be calculated at this time.</p> <ul style="list-style-type: none"> • The QRTP shall be licensed in accordance with 42 USC § 471(a)(10) and accredited by any of the following independent nonprofit organizations: 1. The Commission on Accreditation of Rehabilitation Facilities (CARF); 2. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO); 3. The Council on Accreditation (COA); or 4. Any other independent, nonprofit accrediting organization approved by the U.S. Secretary of Health and Human Services. <p>Direct Costs: A survey of providers indicated that the majority of DBHDS licensed providers sought accreditation from the Council of Accreditation. Costs for accreditation are based on a sliding scale based on the organization’s most recent audited gross annual revenue and, therefore, will vary based on the circumstances of each provider. The estimated cost for accreditation for each provider is \$12,692 over 4 years, or \$3,173 per year. When applied to all 15 licensed providers, the cost of this regulatory action is \$47,595 per year.</p> <p>Direct Benefits: Accreditation by an independent organization ensures consistent high quality of care and increased system confidence in the performance of each QRTP. It is likely that improved quality of care will result in improved outcomes for children served by these programs, however, it is too early to gather sufficient data about the impact of accreditation, therefore, an exact benefit cannot be calculated.</p> |
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⁴ Figure is the average of maintenance payment rates of \$496 per month for children age 0-4, \$580 per month for children age 5-12, and \$735 a month for children age 13 and over.

https://www.dss.virginia.gov/files/division/dfs/fc/intro_page/guidance_manuals/fc/07_2021/section_18_funding_maintenance_costs.pdf

⁵ <https://www.dss.virginia.gov/adoption/>

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|-------------------------------|--|------------------|---------------|
| | <ul style="list-style-type: none"> • Additional requirements for QRTP placements for children within the custody of local social service boards: The qualified residential treatment program (QRTP) shall coordinate with the local departments of social services, the child's biological family members, relative and fictive kin of the child, and, as appropriate, professionals who are a resource to the family of the child, such as teachers, clergy, or medical or mental health providers who have treated the child. <p>Direct Costs: This requirement applies only for QRTP placements for children within the custody of local social service boards. It is expected that this requirement can be met through the employment of additional staff as required in the above regulation on family outreach and care integration, therefore, there is no direct cost associated with this requirement.</p> <p>Direct Benefit: Increased integration of the family unit and family resources (clergy, teachers, mental health providers) may result in improved outcomes for the child, however, there is not sufficient data available to support this claim, therefore, an exact benefit cannot be calculated.</p> | | |
| (2) Quantitative Factors | Estimated Dollar Amount | Present Value | |
| Direct Costs | (a) \$100,038,750 | (c) \$87,895,135 | |
| Direct Benefits | (b) \$0 | (d) \$0 | |
| (3) Benefits-Costs Ratio | 0 | (4) Net Benefit | -\$87,895,135 |
| (5) Indirect Costs & Benefits | | | |
| (6) Information Sources | <p>See Appendix Table 1 for compensation information and sources.</p> <p>See Appendix Table 2 for estimated cost calculations of full-time employment of an LPN and Nurse Assistant, and Table 3 for the cost of employing an on-call LPN and Nurse Assistant through a staffing agency. Costs were calculated assuming a 40% agency markup on the hourly cost of labor, which is within the industry range. Fringe costs for full time employees were calculated using the percentages found in Table 6.</p> | | |

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| | <p>See Appendix Table 4 for the estimated cost calculation of employing a full time Child and Family Social Worker and Administrative Assistant to meet the outreach, care integration, and documentation requirements in this regulatory action. Fringe costs for full time employees were calculated using the percentages found in Table 6.</p> <p>See Appendix Table 5 for the estimated yearly cost of accreditation with the Council on Accreditation. This cost represents the minimum cost of accreditation, and is subject to increase based on provider gross annual revenue.</p> |
| (7) Optional | <p>FFPSA made Therapeutic Group Homes or other institutional settings, such as Psychiatric Residential Treatment Facilities, ineligible for receipt of Title IV-E funds, unless licensed as a QRTP. The establishment of a QRTP license provides an avenue for providers to continue to receive Title IV funding. The total amount of funding is variable to each provider and subject to change with the number of children served each year. Additionally, the benefit of continued Title IV-E funds is a benefit of the FFPSA program as a whole, not a direct benefit associated with an individual regulatory action.</p> |

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

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|-------------------------------|---|-----------------|--|
| (1) Direct Costs & Benefits | This table is not applicable as this regulatory change was required by Item 318.D. of the 2021 Appropriation Act and based on FFPSA, which is federal law. No alternative to this regulatory action is available. | | |
| (2) Quantitative Factors | Estimated Dollar Amount | Present Value | |
| Direct Costs | (a) | (c) | |
| Direct Benefits | (b) | (d) | |
| (3) Benefits-Costs Ratio | | (4) Net Benefit | |
| (5) Indirect Costs & Benefits | | | |
| (6) Information Sources | | | |

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| (7) Optional | |
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Table 1c: Costs and Benefits under an Alternative Approach

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|-------------------------------|---|-----------------|--|
| (1) Direct Costs & Benefits | This table is not applicable as this regulatory change was required by Item 318.D. of the 2021 Appropriation Act and based on FFPSA, which is federal law. No alternative to this regulatory action is available. | | |
| (2) Quantitative Factors | Estimated Dollar Amount | Present Value | |
| Direct Costs | (a) | (c) | |
| Direct Benefits | (b) | (d) | |
| (3) Benefits-Costs Ratio | | (4) Net Benefit | |
| (5) Indirect Costs & Benefits | | | |
| (6) Information Sources | | | |
| (7) Optional | | | |

Impact on Local Partners

Table 2: Impact on Local Partners

| | | | |
|-----------------------------|---|--|--|
| (1) Direct Costs & Benefits | The proposed amendments do not introduce costs for LDSS or for local governments. | | |
| (2) Quantitative Factors | Estimated Dollar Amount | | |
| Direct Costs | (a) | | |
| Direct Benefits | (b) | | |

| | |
|-------------------------------|--|
| (3) Indirect Costs & Benefits | |
| (4) Information Sources | |
| (5) Assistance | |
| (6) Optional | |

Economic Impacts on Families

Table 3: Impact on Families

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|-------------------------------|--|
| (1) Direct Costs & Benefits | This regulatory change would likely have a beneficial impact on families, as it is based on the FFPSA law which was intended to preserve the family unit and avoid unnecessary family separations through placement in foster care or congregate care setting. While beneficial to a family’s well-being, there is not sufficient data available to calculate a quantitative benefit of family unification, nor is there sufficient data available to demonstrate the impact of this regulatory change on the number of children separated from the family unit. |
| (2) Quantitative Factors | Estimated Dollar Amount |
| Direct Costs | (a) |
| Direct Benefits | (b) |
| (3) Indirect Costs & Benefits | |
| (4) Information Sources | |
| (5) Optional | |

Impacts on Small Businesses

Table 4: Impact on Small Businesses

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| (1) Direct Costs & Benefits | The proposed amendments appear to adversely affect small businesses, however, the number of affected entities that are small businesses is unknown. Small businesses that are impacted are expected to incur the costs described in Table 1a of additional staffing requirements and costs of independent accreditation. |
| (2) Quantitative Factors | Estimated Dollar Amount |
| Direct Costs | (a) |
| Direct Benefits | (b) |
| (3) Indirect Costs & Benefits | |
| (4) Alternatives | |
| (5) Information Sources | |
| (6) Optional | |

Changes to Number of Regulatory Requirements

Table 5: Total Number of Requirements

| Chapter number | Number of Requirements | | | |
|----------------|------------------------|-----------|--------------|------------|
| | Initial Count | Additions | Subtractions | Net Change |
| 12VAC35-46 | 1075* | 11** | 0 | 11 |

(*2020 Baseline Total 1011 + 64 Post 2020 in one action, ASAM criteria.)

(**All amendments are state mandates on the regulant due to General Assembly mandate to promulgate regulations “to amend the children's residential facility licensing regulations to align with the requirements of the federal Family First Prevention Service Act for children's residential service providers to meet the standards as qualified residential treatment programs (QRTPs)...”

Appendix

Table 1: Salary Information and Sources

| Position | Compensation | Source |
|--|---------------------|---|
| LPN in VA | \$48,430 | BLS, Occupational Employment and Wage Statistics |
| Nurse Assistant in VA | \$30,890 | BLS, Occupational Employment and Wage Statistics |
| Administrative Support Professional in VA | \$42,950 | BLS, Occupational Employment and Wage Statistics |
| Child and Family Social Worker in VA | \$58,100 | BLS, Occupational Employment and Wage Statistics |
| Hourly Rate On-Call LPN | \$27 | https://www.ziprecruiter.com/Salaries/On-Call-LPN-Nurse-Salary-per-Hour |
| Hourly Rate On-Call Nurse Assistant | \$20* | https://www.ziprecruiter.com/Jobs/On-Call-CNA |
| *This figure is approximate, and based on compensation information ranging from \$18-\$23/hour | | |

Table 2: Cost of Full Time LPN and Nurse Assistant

| Position | Salary | Fringe | Total Annual Compensation |
|--------------------|---------------|---------------|----------------------------------|
| FT LPN | \$48,430 | \$12,194.67 | \$60,624.67 |
| FT Nurse Assistant | \$30,890 | \$7,778.10 | \$38,668.10 |
| | | | \$99,292.78 |

Table 3: Cost of Contract LPN and Nurse Assistant for Off-Hours

| Position | Hourly Rate | Contract Agency Markup - 40% | Hours (128 hours/week x 52 weeks/year) | Annual Cost |
|-------------------------|--------------------|-------------------------------------|---|---------------------|
| On-Call LPN | \$27 | \$37.80 | 6656 | \$251,596.80 |
| On-Call Nurse Assistant | \$20 | \$28 | 6656 | \$186,368 |
| | | | | \$437,964.80 |

Table 4: Cost of Employing a Full Time Social Worker and Administrative Assistant

| Position | Salary | Fringe | Total Annual Compensation |
|--------------------------------------|---------------|---------------|----------------------------------|
| Administrative Assistant | \$42,950 | \$10,814.81 | \$53,764.81 |
| Child and Family Social Worker in VA | \$58,100 | \$14,629.58 | \$72,729.58 |
| | | | \$126,494.39 |

Table 5

All fees are estimates, as accreditation fees are based on a sliding scale of provider size. All figures were found on the Council on Accreditation website, <https://coanet.org/>.

| Estimated Council on Accreditation Fee | |
|---|-----------------|
| Accreditation Fee* | \$7,392 |
| Site Visit Fee | \$2,200 |
| Reviewer Fee** | \$1,900 |
| Maintenance Fee*** | \$1,200 |
| Total Cost for 4 Years | \$12,692 |
| Cost Per Year | \$3,173 |
| Cost Per Year x 17 Providers | \$53,941 |
| *This figure represents the minimum accreditation fee, providers with gross annual revenue above \$500,000 may be subject to a higher fee ** This figure represents the cost for a reviewer at the minimum level of 2 reviewers over 2 days at \$475 per day *** The Maintenance Fee is a \$400 fee paid on the first, second, and third anniversary of accreditation. To calculate total costs of accreditation the fee is expressed as one payment of \$1,200 | |

Table 6

| Type | Percentage |
|------------------------------|-------------------|
| VRS | 14.46% |
| Group Life | 1.34% |
| Social Security | 6.20% |
| Medicare | 1.45% |
| Retiree Health Credit | 1.12% |
| Disability-Regular | 0.61% |

COST BENEFIT ANALYSIS WORKSHEET

INTERIM v. July 28, 2022

| | | |
|----------------|----------|--|
| Discount Rate: | 3% | DO NOT CHANGE THIS NUMBER unless you wish to use a different |
| Time horizon: | 10 years | |

Notes:

1. Year 0 represents the current fiscal year
2. Options 1 & 2 below correspond to the two options in the grocery cart example. Option 3 below provides an alternative
3. Replace the values in the green cells below with the expected costs and benefits for your analysis. Insert zero (0) for no cost or benefit.
4. The sections for options 2 and 3 must be filled out if the agency has any discretion over the proposed regulatory action.

| Year | Option 1 | | Option 2 | | Option 3 | |
|--------------|-------------|---------|----------|---------|----------|---------|
| | Cost | Benefit | Cost | Benefit | Cost | Benefit |
| 0 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 1 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 2 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 3 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 4 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 5 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 6 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 7 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 8 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 9 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 100,038,750 | 0 | 0 | 0 | 0 | 0 |

| <u>Present Value</u> | | | | | | |
|----------------------|------------|---------|----------|---------|----------|---------|
| Year | Option 1 | | Option 2 | | Option 3 | |
| | Cost | Benefit | Cost | Benefit | Cost | Benefit |
| 0 | 10,003,875 | 0 | 0 | 0 | 0 | 0 |
| 1 | 9,712,500 | 0 | 0 | 0 | 0 | 0 |
| 2 | 9,429,612 | 0 | 0 | 0 | 0 | 0 |
| 3 | 9,154,963 | 0 | 0 | 0 | 0 | 0 |
| 4 | 8,888,313 | 0 | 0 | 0 | 0 | 0 |
| 5 | 8,629,430 | 0 | 0 | 0 | 0 | 0 |
| 6 | 8,378,088 | 0 | 0 | 0 | 0 | 0 |
| 7 | 8,134,066 | 0 | 0 | 0 | 0 | 0 |
| 8 | 7,897,151 | 0 | 0 | 0 | 0 | 0 |
| 9 | 7,667,137 | 0 | 0 | 0 | 0 | 0 |
| TOTAL | 87,895,135 | 0 | 0 | 0 | 0 | 0 |

| | Option 1 | Option 2 | Option 3 |
|--------------------|-------------|----------|----------|
| Benefit-Cost Ratio | 0.00 | #DIV/0! | #DIV/0! |
| Net Benefit | -87,895,135 | 0 | 0 |

Discount rate; if so, please make a note of this on the Economic Impact form and provide a rationale

example where costs and benefits vary from year to year.

(0) for years where no costs or benefits are expected.

Scenario changes. Use "Option 2" for the status quo and "Option 3" for one other alternative.