

# **Presentation to the Joint Subcommittee Studying the comprehensive Services Act and Comprehensive Services for At-Risk Youth and Families Program**

## ***Overview of Regulatory Responses to JLARC's Evaluation of Children's Residential Services Delivered Through the comprehensive Services Act***

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### Introduction –

- Revision of the Standards for the Interdepartmental Regulations of Children's Residential Facilities is in process and on schedule for final approval and to go into effect by 12/26/2007.

### Review of Specific Recommendations

***Recommendation (1).*** The Secretaries of Health and Human Resources, Education, and Public Safety should request that the licensing divisions conduct workload assessments for the purpose of specifically determining what additional resources are needed to address the findings presented in this report.

***No action as yet. Likely to be included as part of the FY 2008-2010 budget development process.***

***Recommendation (2).*** The General Assembly may wish to consider directing the interdepartmental program to collect application or licensing fees commensurate with the cost of processing those applications and earmark those fees for a training fund for residential providers. In addition, the interdepartmental program should require new applicants to submit a business needs assessment along with an application for licensure demonstrating a need for the services in the intended location.

- **ADDRESSED IN PROPOSED REGULATION REVISIONS**
- Proposed standards require a \$500 fee for initial applications - § 100.A
- Proposed standards require a \$100 fee for renewal applications - § 100.B
- Fee to be used for training both regulators and providers
- Needs assessment was not required in the proposed standards as the time and use of resources needed to review these needs assessments could be better used in evaluating programs. Needs assessments will always say there is a need. Without a structured needs assessment methodology the needs assessment does not provide useful information. Individuals have the right to apply despite needs assessments.

***Recommendation (3).*** The joint subcommittee studying the Comprehensive Services Act should evaluate the benefits and drawbacks of consolidating under one agency the licensing and regulatory functions currently carried out by the Departments of Social Services; Mental Health, Mental Retardation, and Substance Abuse Services; Education; and Juvenile Justice, and coordinated by the Office of Interdepartmental Regulation.

**Recommendation (4).** Clear guidelines for issuing systemic deficiencies and taking enforcement actions based on the scope and severity of violations should be developed by June 30, 2007.

- **Work is in process, however; due to complexity of the subject this work will not be completed by the recommended date.**
- Liaison committee prepared draft procedure for systemic deficiencies – need to be reviewed by workgroup
- Enforcement issues may be dependent on Code for Agency and AG guidance

**Recommendation (5).** The Office of Interdepartmental Regulation should ensure that training of licensing staff is conducted and addresses interpretation of key standards, policies for issuing systemic deficiencies, procedures for taking formal enforcement actions, and other needs identified by licensing staff.

- **Work is in process.**
- Licensing fee requirements added – money to be used for training
- Training to be offered to staff regarding proposed standards/procedures
- Workgroup is looking at ways to improve standardization and consistent interpretation of key standards

**Recommendation (6).** The General Assembly may wish to consider amending the *Code of Virginia* to direct the Department of Education to license and regulate only the educational component of residential schools rather than serve as the primary regulatory agency in these facilities. The Department of Education's budget and staffing allowance associated with regulating the non-educational components of residential schools should be transferred to the regulatory agencies that are assigned primary responsibility for licensing and regulating the non-educational components of residential schools.

- **Recommendation Implemented.**
- 23 facilities transferred to DMHMRSAS from DOE (no money or resources transferred)
- DOE continues to have lead regulatory responsibility for 8 facilities – 2 are the Schools for the Deaf and Blind. These facilities are those who are not group homes or residential treatment providers and whose primary function is that of a school. DOE continues to have regulatory responsibility for 79 additional school programs.

**Recommendation (7).** The State Executive Council should require licensing divisions to present during their quarterly meetings a summary of significant compliance problems identified and the enforcement actions taken or proposed to address each problem.

- **Secretary Tavenner is working with the four regulatory agencies and the office of the CSA to schedule time for these reports at future meetings of the SEC.**
- Licensing information is shared via e-mails to CSA, Local DSS's etc.
- DSS licensing information is now on-line - [www.dss.virginia.gov](http://www.dss.virginia.gov) (visits, violations)

**Recommendation (8).** The Governor may wish to release for public comment the proposed regulations relating to standards in residential facilities that were submitted to the Governor and Secretary of Health and Human Resources in 2004, and approve the emergency regulations required pursuant to Chapter 781 of the 2006 Acts of Assembly.

- **ADDRESSED IN PROPOSED REGULATION REVISIONS**
- Emergency Regulation became effective 12/28/2006
- Proposed regulation was redrafted and is currently in the public comment period (May 28 – July 27, 2007)

**Recommendation (9).** The boards of the four agencies regulating children's residential facilities should direct agency staff to develop additional proposed regulations that address the findings of this report regarding the need for stronger standards governing the operation of residential facilities which are not currently addressed by the drafted proposed regulations. These additional proposed regulations should address vague standards, supervision of residents and staff, and training and qualifications of staff.

- **ADDRESSED IN PROPOSED REGULATION REVISIONS**
- New proposed standards were drafted and are now in public comment
  - Staff Supervision - § 320
  - Staff supervision of Residents - § 830
  - Training - §310
  - Qualifications - § 340 - CAO, 350 - Program Director, 360 – Case Manager, 370 – Child Care Supervisor, 380 – Child Care worker

**Recommendation (12).** The boards of the four agencies regulating children's residential facilities should direct agency staff to develop additional proposed regulations that address the findings from this report regarding the need for stronger standards governing the operation of residential facilities which are not addressed by the currently drafted proposed regulations. These additional proposed regulations should address the provision of case management services, development of service plans, and engagement of families in children's services.

- **ADDRESSED IN PROPOSED REGULATION REVISIONS**
- New proposed standards were drafted and are now in public comment
  - Case Manager – 360
  - Program Director – oversee assessments and service planning – 350.B
  - Service Plans and quarterly reports – 720.B.4 – projected family involvement; 720.E.2 – Family involvement; 720.H – Family involvement in developing and updating the service plan and update

**Recommendation (22).** The Office of Comprehensive Services, Office of Interdepartmental Regulation, Department of Social Services, Department of Education, Department of Juvenile Justice, and Department of Mental Health, Mental Retardation and Substance Abuse Services should work with the

Virginia Information Technologies Agency to develop a standardized information system that will enable regulatory agencies to report licensing and compliance data on children's residential providers to the Office of Comprehensive Services.

- **Work In Process**
- DSS has information on licensing reviews and violations on web
- CSA forming work group – OIR and licensing will have representation