

Notice of Emergency Rule

DEPARTMENT OF CHILDREN AND FAMILIES

Substance Abuse Program

RULE NO.: RULE TITLE:

65DER17-1 Standard for Medication-Assisted Treatment for Opioid Addiction

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: On May 3, 2017, the Governor of the State of Florida signed Executive Order Number 17-146 declaring that the opioid epidemic threatens the State with an emergency and that, as a consequence of this danger, a state of emergency exists. Also, in the executive order, the Governor directed the State Health Officer and Surgeon General to declare a statewide public health emergency, pursuant to its authority in section 381.00315, F.S. On June 29, 2017, the Governor signed Executive Order Number 17-177 to extend the state of emergency declaration.

The department was recently awarded a two-year grant to address this opioid epidemic. The department will use these funds in part to expand methadone medication-assisted treatment services in needed areas of the state as part of a comprehensive plan to address the opioid crisis. Revising the licensure requirements through an emergency rule is necessary to accommodate the critical need for more methadone medication-assisted treatment providers.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The procedure is fair under the circumstances because it ensures equitable treatment of methadone medication-assisted treatment providers.

SUMMARY: This rule makes changes to permanent Rule 65D-30.014 F.A.C., relating to licensure requirements for methadone medication-assisted treatment programs.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Bill Hardin. He can be reached at William.Hardin@myflfamilies.com or Office of Substance Abuse and Mental Health, 1317 Winewood Boulevard, Building 6, Tallahassee, Florida 32399-0700.

THE FULL TEXT OF THE EMERGENCY RULE IS:

~~65DER17-1 (65D-30.014): Standards for Medication-Assisted Treatment for Opioid Addiction. Standards for Medication and Methadone Maintenance Treatment~~ In addition to Rule 65D-30.004, F.A.C., the following standards apply to Standards for Medication-Assisted Treatment for Opioid Addiction ~~Medication and Methadone Maintenance Treatment~~.

(1) State Authority. The state authority is the department's Office of Substance Abuse and Mental Health ~~Substance Abuse Program Office~~.

(2) Federal Authority. The federal authority is the Center for Substance Abuse Treatment.

(3) Determination of Need.

(a) Criteria. In accordance with s. 397.427, F.S., the department shall not license any new medication-assisted treatment programs for opioid addiction until the department conducts a needs assessment to determine whether additional providers are needed in Florida. The determination of need shall only apply to methadone medication-assisted treatment programs for opioid addiction. Department of Correction facilities are excluded from this process. The department shall use a methodology based on a formula that identifies the number of people who meet the criteria for dependence or abuse of heroin or pain relievers who did not receive any treatment, and the number of opioid-caused deaths. This formula will be weighted, with 70 percent driven by the number of people with an unmet need for treatment and 30 percent driven by the number of deaths. In its effort to determine need, the department shall examine the following data:

1. Population estimates by age and by county;
2. Number of opioid-caused deaths;
3. Estimated number of past-year nonmedical pain reliever users; and
4. Estimated number of life-time heroin users;

~~New providers shall be established only in response to the department's determination of need, which shall occur annually. The determination of need shall only apply to medication and methadone maintenance treatment programs. In its effort to determine need, the department shall examine information on treatment, the consequences~~

~~of the use of opioids (e.g., arrests, deaths, emergency room mentions, other incidence and prevalence data that may have relevance at the time, etc.), and data on treatment accessibility.~~

(b) Procedure. By August 28, 2017, the department will conduct a needs assessment to determine whether additional methadone medication-assisted treatment providers are needed in Florida. The department will publish a determination of need in the Florida Administrative Register and on the department's website at <http://www.myflfamilies.com/service-programs/substance-abuse> on August 30, 2017. If the department determines that additional providers are needed, the department will also publish instructions for submitting an appropriate application.

1. Applicants interested in providing methadone medication-assisted treatment must complete and submit CF-MH 4036 titled, "Methadone Medication-Assisted Treatment Provider Application in Response to Emergency Rule", June 2017, incorporated herein by reference. Form CF-MH 4036 is available from the department's website at <https://eds.myflfamilies.com/DCFFormsInternet/Search/DCFFormSearch.aspx> and at <http://www.myflfamilies.com/service-programs/substance-abuse>.

Applications must be complete and responsive to all of the questions on this form. Applications will be accepted at department headquarters from September 22, 2017 at 8 a.m. Eastern Time until October 13, 2017, at 5 p.m. Eastern Time. Applications must be delivered to the following address: Florida Department of Children and Families, Office of Substance Abuse and Mental Health, 1317 Winewood Boulevard, Building 6, Tallahassee, Florida 32399-0700.

2. For the application review period in response to this emergency rule, the department will use CF-MH 4037 titled, "Review Form for Methadone Medication-Assisted Treatment Provider Application in Response to Emergency Rule", June 2017, incorporated herein by reference. Form CF-MH 4037 is available from the department's website at <https://eds.myflfamilies.com/DCFFormsInternet/Search/DCFFormSearch.aspx> and at <http://www.myflfamilies.com/service-programs/substance-abuse>.

3. Should the number of applications for a new provider in a Florida county exceed the determined need, the selection of a provider shall be based on the order in which complete and responsive applications are received by the Office of Substance Abuse and Mental Health headquarters.

4. Applicants who are approved to apply for licensure will receive notices from the department by November 10, 2017.

5. Applicants who receive approval notices shall submit applications for licensure to the department's regional Substance Abuse and Mental Health office(s) where the service will be provided. The regional Substance Abuse and Mental Health office will process applications for licensure in accordance with the standards and requirements in 65D-30, F.A.C.

~~The department shall publish the results of the assessment in the Florida Administrative Weekly by June 30. The publication shall direct interested parties to submit applications for licensure to the department's district office where need has been demonstrated and shall provide a closing date for submission of applications. The district office shall conduct a formal rating of applicants on a form titled MEDICATION AND METHADONE MAINTENANCE TREATMENT NEEDS ASSESSMENT, September 6, 2001, incorporated herein by reference. The form may be obtained from the Department of Children and Family Services, Substance Abuse Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700. Should the number of responses to the publication for a new provider exceed the determined need, the selection of a provider shall be based on the following criteria:~~

- ~~1. The number of years the respondent has been licensed to provide substance abuse services;~~
- ~~2. The organizational capability of the respondent to provide medication and methadone maintenance treatment in compliance with these rules; and~~
- ~~3. History of substantial noncompliance by the respondent with departmental rules.~~

~~(4) through (6) No change.~~

Rulemaking Authority ~~397.21(5)~~ 397.321(5) F.S. Law Implemented ~~397.311(18)(g)~~, 397.311(25)(a)7, 397.321(1), 397.419, FS. History—New 5-25-00, Amended 4-3-03, Amended 8-25-17.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: 8/25/2017