



STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Chair Houghton, House Committee on Health Care
Chair Wood, House Committee on Human Services

FROM: Monica Ogelby, Medicaid Director, Agency of Human Services

DATE: 3/27/24

SUBJECT: Follow up questions regarding Psychiatric Residential Treatment Facility (PRTF)

This memo is in response to questions about licensure for a PRTF, currently being developed at the Brattleboro Retreat after a successful response to a request for proposal. We appreciate your support and careful consideration of this initiative. By creating this level of care in Vermont, we can ensure that every child gets the right level of care at the right time. This initiative will positively impact agencies and organizations that support youth and families outside of the PRTF.

1. How will the PRTF be licensed?

Short answer: it will be certified at the federal level by CMS and licensed at the state level by the Vermont Department of Health.

A PRTF is a provider of inpatient psychiatric services who:

- has a provider agreement with a State Medicaid Agency to provide the inpatient services benefit to Medicaid-eligible individuals under the age of 21 (psych under 21 benefit);
- provides PRTF services under the direction of a physician;
- must be accredited by The Joint Commission, CARF, CASFC, or any other state-approved accrediting organization; and
- meet requirements in [42 CFR 441.151 to 441.182, and 483.350 to 483.376](#) under the conditions of participation.

Federal Oversight

In 2001, CMS finalized PRTF's as a separate type of inpatient setting, and established what are known as Conditions of Participation regulations which detail how a PRTF must be run and what requirements it must follow. These include conditions around beneficiary and accreditation

requirements, certification of need for services, team certifying need for services, active treatment, individual plan of care, and interdisciplinary teams to name a few.

Each state is required to have a State Survey Agency (SSA) to do survey and certification work on behalf of CMS. Vermont's SSA is the Department of Disabilities, Aging and Independent Living (DAIL) [Survey and Certification Team, which falls under DAIL's Licensing and Protection division](#). If you would like more information about the role of survey and certification, this document might be helpful: https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/01CertandCompliance_Overview.pdf

CMS, through DAIL as the SSA, will, at the federal level, be the body that performs survey and certification work for this facility at the Brattleboro Retreat.

Some basic information about how the process works:

- SSAs perform initial surveys (inspections) and periodic resurveys (including complaint surveys) of all providers and certain kinds of suppliers. These surveys are conducted to ascertain whether a provider/supplier meets applicable requirements for participation in the Medicare and/or Medicaid programs, and to evaluate performance and effectiveness in rendering a safe and acceptable quality of care. These requirements are found in Part 42 of the Code of Federal Regulations.
- Surveys may include a provider's efforts to prevent environmental hazards due to contagion, fire, contamination, or structural design and maintenance problems and ascertaining that responsible provider officials and key personnel are effectively assuring health and safety.
- Certification is when the SSA officially recommends its findings on if health care entities meet the Social Security Act's provider or supplier definitions, and whether the entities comply with standards required by Federal regulations. The functions that the SSAs perform are referred to collectively as the certification process.
- Additionally, CMS regulates the use of seclusion and restraint for PRTFs and has specific conditions of participation detailing the requirements for their use.

State Oversight

After researching the issue of state licensure, it was determined that the Vermont Department of Health will license this facility. The Agency of Human Services agrees there should be both state and federal oversight of this facility to ensure the safety and quality of services for youth in Vermont.

The Agency of Human Services, through its contract requirements, will also outline clear requirements for the facility, including staffing, scope of services, referral processes, educational offerings, and trauma-responsive de-escalation and intervention policies and procedures.

2. What will govern the use of seclusion/restraint/emergency involuntary medication?

As noted above, the PRTF Conditions of Participation set clear requirements around the use of seclusion and restraint, which includes emergency medication. In addition, it will be subject to the Department of Mental Health's "Regulation Establishing Standards for Emergency Involuntary Procedures" which was specifically designed to be more stringent than CMS and Joint Commission requirements.