

Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**Psychiatric Residential Treatment Facility for Youth
Licensing Rule**

/s/ Kristin L. McClure _____, on 6/30/25
(signature) (date)

Printed Name and Title:

Kristin McClure
Deputy Secretary

RECEIVED BY: _____

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Filing Confirmed

Agency of Human Services

1. TITLE OF RULE FILING:

**Psychiatric Residential Treatment Facility for Youth
Licensing Rule**

2. ADOPTING AGENCY:

Agency of Human Services - Vermont Department of
Health

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Jessica Schifano, Policy Director

Agency: Agency of Human Services - Vermont Department of
Health

Mailing Address: 280 State Street, Building C, Waterbury,
VT 05671

Telephone: 802-798-6756 Fax:

E-Mail: jessica.schifano@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

[http://www.healthvermont.gov/about-us/laws-
regulations/public-comment](http://www.healthvermont.gov/about-us/laws-regulations/public-comment)

4. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY
ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE
PRIMARY CONTACT PERSON).*

Name: Natalie Weill, Policy Advisor

Agency: Agency of Human Services - Department of Health

Mailing Address: 280 State Street, Building C, Waterbury,
VT 05671

Telephone: Fax:

E-Mail: natalie.weill@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL;
LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND
COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

Act 137 (2024) Sec. 8 requires the Department of Health to adopt rules for the purpose of implementing and administering the Act.

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

18 V.S.A. §7261(e) states, "The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this section."

3 V.S.A. §801(b) (11) states "Adopting authority" means, for agencies that are attached to the Agencies of Administration, of Commerce and Community Development, of Natural Resources, of Human Services, and of Transportation, or any of their components, the secretaries of those agencies; for agencies attached to other departments or any of their components, the commissioners of those departments.

8. CONCISE SUMMARY (150 WORDS OR LESS):

This rule sets forth the standards that apply to the licensing of psychiatric residential treatment facilities for youth (PRTF) in Vermont.

This rulemaking establishes the process by which a psychiatric residential treatment facility for youth can apply for a license in Vermont.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

This rulemaking is necessary for compliance with 18 V.S.A. §7261(e) that requires the Department of Health (Department) "to adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this section."

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):

The establishment of this rule is not arbitrary because the rule is tailored to comply with the specific requirements of 18 V.S.A. §7261(e) that requires the Department to adopt rules to establish the process by

which a psychiatric residential treatment facility for youth can apply for a license in Vermont.

**11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES
AFFECTED BY THIS RULE:**

Entities Establishing, Maintaining, or Operating PRTFs, the Vermont Department of Health, and the Department of Disabilities, Aging, and Independent Living (DAIL).

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

This rulemaking establishes a licensing and regulatory program for PRTF within the Department of Health, as required by statute (18 V.S.A. § 7261). There are only minimal economic impacts anticipated for the Agency of Human Services and for the Entities Establishing, Maintaining, or Operating PRTFs from this Rule.

13. A HEARING WILL BE SCHEDULED

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Psychiatric Residential Treatment Facility for Youth

Psychiatric

Youth

Mental Health

Licensing

Residential

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

**Psychiatric Residential Treatment Facility for Youth
Licensing Rule**

2. ADOPTING AGENCY:

Agency of Human Services - Vermont Department of Health

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU
BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF
THE LAST ADOPTION FOR THE EXISTING RULE*):

N/A

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

**Psychiatric Residential Treatment Facility for Youth
Licensing Rule**

2. ADOPTING AGENCY:

Agency of Human Services – Vermont Department of Health

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

DAIL: There is a small anticipated cost to DAIL from this rulemaking. This rulemaking requires DAIL to inspect PRTFs for compliance with CMS regulations and verify ongoing compliance with relevant rules. DAIL will also be required to receive and respond to complaints and initiate investigations and corrective

actions. While the requirements associated with a PRTF are new, these responsibilities, generally, are ones familiar to DAIL, as they complete similar responsibilities for other health care facility licensing programs (i.e., Hospitals, Ambulatory Surgical Centers) currently established in the Department of Health and have the existing staff and infrastructure to carry out these responsibilities.

Vermont Department of Health: There is a small anticipated cost to VDH from this rulemaking since it requires the Department to implement the licensing scheme for PRTFs.

Entities Establishing, Maintaining, or Operating PRTFs: There is a small anticipated cost to the Entities Establishing, Maintaining, or Operating PRTFs, to meet the following requirements of the Rule: 1) completing the application and renewal process; 2) maintaining compliance with relevant regulations; 3) establishing a complaint process; 4) preparing documents that verify compliance with CMS Conditions of Participation for psychiatric residential treatment facilities for youth (CoPs); 5) completing the post-discharge follow-up of residents; 6) creating an emergency preparedness plan; and 7) reporting of required data. However, these are all minimum requirements that are necessary to obtain a license from the Department of Health, as established by statute (18 V.S.A. § 7261).

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

There is no anticipated direct impact to schools.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Because there is no anticipated direct impact to schools, alternatives to this rule have not been considered.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

There is no anticipated impact to small businesses.

7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.

Because there is no anticipated impact to small businesses, no evaluation is necessary.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

There are no alternatives to this rule, this rulemaking is necessary for compliance with 18 V.S.A. §7261(e) that requires the Department "to adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this section."

9. SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.

The Department has provided the relevant information above based on the assessment of the potential impacts.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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2. ADOPTING AGENCY:

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3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No anticipated impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

No anticipated impact.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No anticipated impact.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
No anticipated impact.
7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No anticipated impact.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
No anticipated impact.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
The estimate is based on information available to the Department.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

**Psychiatric Residential Treatment Facility for Youth
Licensing Rule**

2. ADOPTING AGENCY:

Agency of Human Services - Vermont Department of Health

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

Targeted outreach will continue to the parties listed below. Additionally, a public hearing will be held.

The rule will be posted on the Department of Health website:

http://healthvermont.gov/admin/public_comment.aspx.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

The following have been consulted and included in development discussions:

The State Interagency Team created by Act 264 (1988)

The Local Interagency Teams created by Act 264 (1988)

The Act 264 Advisory Board created by Act 264 (1988)

Parents of youth who may seek services at a Vermont PRTF

Public Input

Vermont Family Network

Vermont Federation of Families

Vermont Care Partners

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

**Psychiatric Residential Treatment Facility for Youth
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2. ADOPTING AGENCY:

Agency of Human Services - Vermont Department of Health

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

Sec. 3.3 refers to 42 C.F.R. § 441.150-441.184 (Subpart D) and 42 C.F.R. § 483.350-483.376 (Subpart G) of the Code of Federal Regulations;

Sec. 3.15 refers to 42 C.F.R. § 441.152;

Sec. 5.1.1.2 refers to section 1135 of the Social Security Act during an emergency as defined in 42 U.S.C. § 1320b-5;

Sec. 5.7.1 refers to 42 C.F.R. § 441.184 and the associated guidelines;

Sec. 5.7.2 refers to 42 C.F.R. § 441.184 (e);

Sec. 5.8.1 refers to 42 C.F.R. § 483.374;

Sec. 5.8.2 refers to 42 C.F.R. § 483.374(b) and (c); Sec. 7.0 refers to the Regulation Establishing Standards for Emergency Involuntary Procedures of the Vermont Department of Mental Health ("Department of Mental Health Rule")

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

42 CFR Part 441 Subpart D; 42 CFR Part 483 Subpart G; 42 CFR 441.152; 42 U.S. Code § 1320b-5; 42 CFR 441.184; 42 CFR 441.184(e); 42 CFR 483.374; 42 CFR 483.374(b) and (c); and Regulation Establishing Standards for Emergency Involuntary Procedures of the Vermont Department of Mental Health ("Department of Mental Health Rule").

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

These references are all publicly available for free on publicly accessible government websites.

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

There are adaptations to the Regulation Establishing Standards for Emergency Involuntary Procedures of the Vermont Department of Mental Health Rule applying to the PRTF rule. The modifications are noted in Sec. 7.0.

Additionally, certain parts of the CFR are not used. These include: 42 C.F.R. § 441.151(a)(3)(i) and (ii) ("...or, if the individual was receiving the services immediately before he or she reached age 21, before the earlier of the following— (i) The date the individual no longer requires the services; or (ii) The date the individual reaches 22...") shall not be included in the meaning of "CMS Conditions of Participation for psychiatric residential treatment facilities" or "CoPs" as used in these Rules.

Psychiatric Residential Treatment Facility for Youth Licensing Rule

1.0 Authority

This Rule is adopted pursuant to 18 V.S.A. § 7261(e).

2.0 Purpose

This Rule sets forth the standards that apply to the licensing of psychiatric residential treatment facilities for youth (PRTF) in Vermont.

3.0 Definitions

- 3.1 “Accreditation” means the formal recognition by an approved accrediting body, such as the Joint Commission, that indicates conformity with the accrediting body’s required set of standards and criteria for a PRTF.
- 3.2 “CMS” means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.
- 3.3 “CMS Conditions of Participation for psychiatric residential treatment facilities for youth” or “CoPs” means 42 C.F.R. § 441.150-441.184 (Subpart D) and 42 C.F.R. § 483.350-483.376 (Subpart G) of the Code of Federal Regulations, as may be updated or amended, and related laws and regulations, interpretive guidelines, appendices, and requirements, except that 42 C.F.R. § 441.151(a)(3)(i) and (ii) (“...or, if the individual was receiving the services immediately before he or she reached age 21, before the earlier of the following— (i) The date the individual no longer requires the services; or (ii) The date the individual reaches 22...” shall not be included in the meaning of “CMS Conditions of Participation for psychiatric residential treatment facilities for youth” or “CoPs” as used in these Rules.
- 3.4 “Commissioner” means the Commissioner of the Vermont Department of Health.
- 3.5 “Deemed Status” means the status granted to a PRTF by a CMS-approved national accrediting body, such as the Joint Commission or other accrediting organization that has comparable standards and is recognized by the Commissioner of Mental Health, after it has surveyed the PRTF and determined it is in compliance with all CMS Conditions of Participation.
- 3.6 “Deficiency” means a policy, procedure, practice, or action by a PRTF that results in the facility not being in compliance with this Rule or with the CMS Conditions of Participation.
- 3.7 “Department” means the Vermont Department of Health.

- 3.8 “Psychiatric residential treatment facility for youth” or “PRTF” means a nonhospital, inpatient facility that holds accreditation to provide psychiatric services in a residential setting to youth, as defined herein, with complex mental health conditions under the direction of a physician.
- 3.9 “Joint Commission” means the independent not-for-profit organization that accredits and certifies that healthcare organizations meet certain quality and performance standards.
- 3.10 “Mental Health Patient Representative” or “Representative” means a person who advocates for and fosters communication with health care providers on behalf of patients pursuant to a contract with the Department of Mental Health, as called for by 18 V.S.A. § 7253(1)(J).
- 3.11 “Resident Complaint” means any expression of dissatisfaction with the care and treatment provided by a PRTF, from a resident or the resident’s Mental Health Patient Representative. In this Rule, the term includes a resident “grievance,” which in the CoPs and CMS State Operations Manual specifically refers to complaints presented to and resolved or attempted to be resolved within a facility’s internal system. It does not include matters that are resolved by staff present.
- 3.12 “Plan of Correction” means a written plan that a licensee is required to submit to address any identified Deficiency to bring a PRTF into compliance with this Rule.
- 3.13 “State Survey Agency” means the unit of Vermont state government designated by the Centers for Medicare and Medicaid Services to enforce the federal Conditions of Participation for hospitals and PRTFs in Vermont, which is the Vermont Department of Disabilities, Aging and Independent Living.
- 3.14 “Validation Survey” means a survey conducted by the State Survey Agency on behalf of CMS to ensure that a PRTF with Deemed Status is in compliance with the CMS conditions of participation.
- 3.15 “Youth” means a resident who is certified in writing to be in need of the services in the PRTF setting in accordance with 42 C.F.R. § 441.152;
- 3.15.1 who is at least 12-years-old and up to 18-years-old; and
- 3.15.2 who is at least 18-years-old and up to 21-years-old, if the resident
- 3.15.2.1 was receiving services in a PRTF at the time they reach age 18; and
- 3.15.2.2 continues to require the services provided at the PRTF.

4.0 Application for a Psychiatric Residential Treatment Facility for Youth License

- 4.1 No organization or individual may establish, conduct, or maintain operation of a PRTF in Vermont without being granted a license by the Vermont Department of Health.
- 4.2 Every Vermont PRTF license shall expire on December 31 of each year unless otherwise revoked.
- 4.3 An application for a PRTF license, or renewal of a license, shall be submitted in the form required by the Department and available on its webpage. Renewal applications shall be submitted on or before the date set by the Department.
- 4.4 Applications for an initial license and applications for license renewal shall contain all the information required by the Department. The required information shall include
 - 4.4.1 Identifying information and all facility locations.
 - 4.4.2 Administrative officers and contact information for the person completing the application.
 - 4.4.3 Type and form of organization, documentation of registered status as a nonprofit entity, and CMS designation.
 - 4.4.4 Certification and accreditation status.
 - 4.4.5 Numbers of beds.
 - 4.4.6 Verification of other statutory requirements.
 - 4.4.7 Information regarding the plan for handling of resident complaints and the staff member responsible for that program.
- 4.5 Applications for a PRTF license or renewal shall certify compliance with health, safety, and sanitary standards required by law.
- 4.6 Unless the Department specifies a different time or format for response, a PRTF that receives an inquiry from the Department regarding the licensing application shall furnish all information requested within ten (10) working days of receipt. Failure to meet submission deadlines may delay action on an application.

5.0 Requirements for Psychiatric Residential Treatment Facility for Youth Licensure in Vermont

5.1 Compliance with CMS Conditions of Participation

- 5.1.1 To be licensed and retain licensure in Vermont, each PRTF shall comply with all applicable CMS Conditions of Participation referenced in Rule 3.3 unless
 - 5.1.1.1 Operating under a Plan of Correction as described in Rule 8.4; or
 - 5.1.1.2 Operating under a waiver granted under Section 1135 of the Social Security Act during an emergency as defined in 42 U.S.C. § 1320b-5.
- 5.1.2 To demonstrate compliance with CoPs, each Vermont PRTF facility shall make the premises and appropriate staff available for a comprehensive, on-site and unannounced survey by the State Survey Agency
 - 5.1.2.1 Occurring on average once every five years or at a frequency determined by CMS;
 - 5.1.2.2 Whenever CMS requires a Validation Survey for an accredited PRTF with Deemed Status; or
 - 5.1.2.3 Whenever the Department or its designee determines that a survey is required as referenced in Rule 5.2.
- 5.1.3 As part of the annual PRTF licensing process, both for initial licenses and at renewal, each PRTF shall provide to the Department any documents necessary to verify for the Department that the PRTF has met the requirements of the CoPs.

5.2 Demonstrating Compliance with CMS CoPs by Deemed Status

- 5.2.1 As long as CMS recognizes that a PRTF accredited by the Joint Commission and with Deemed Status meets the compliance requirements of the CoPs, each accredited PRTF with Deemed Status shall be considered by the State Survey Agency and the Department to have met the CoPs unless and until their accreditation is revoked or cancelled.
- 5.2.2 If a PRTF relies on an accrediting body other than the Joint Commission to determine that it has met the CoPs, the PRTF shall provide verification that CMS has approved the accrediting body to authorize Deemed Status.
- 5.2.3 A PRTF with Deemed Status shall make the institution available for a Validation Survey by the State Survey Agency when CMS requires a Validation Survey.

- 5.3 A PRTF license is not transferable or assignable and shall be issued only for the premises and persons named in the application. A licensed PRTF contemplating a change of ownership, or the elimination or significant reduction of clinical services shall provide at least ninety (90) days advance notice to the Department.
- 5.4 The PRTF license shall be posted in a conspicuous place on the licensed premises.
- 5.5 A PRTF shall follow up with residents within 72 hours of discharge. This shall be done by the most effective means possible including via email, text, or phone. A PRTF shall continue to follow up with the resident until either contact is made, or at least 5 attempts every 24 hours for up to 72 hours have been made and documented.
- 5.6 **Health and Life Safety and Other Regulatory Requirements**
In addition to conforming to all CoPs, each Vermont PRTF seeking licensure shall comply with all applicable current state and municipal laws including, but not limited to, the Department of Public Safety Rules on Vermont Fire and Building Safety Codes and other Vermont laws related to food safety.
- 5.7 **Emergency Preparedness Planning**
- 5.7.1 Each Vermont PRTF shall have an Emergency Preparedness Plan as required by CMS regulations at 42 C.F.R. § 441.184 and the associated guidelines.
- 5.7.2 A PRTF that is affiliated with a Vermont-licensed hospital may satisfy the requirement for an Emergency Preparedness Plan as a participant in the hospital's Emergency Preparedness Plan if the requirements of 42 C.F.R. § 441.184(e) are met.
- 5.7.3 Each PRTF shall provide a copy of its Emergency Preparedness Plan to the Department for review if requested.
- 5.8 **Reporting of Events to the Department**
- 5.8.1 A PRTF shall provide the Department with a copy of any report that is required to be filed with the Vermont's State Medicaid Agency, the Department of Vermont Health Access, pursuant to 42 C.F.R. § 483.374.
- 5.8.2 Reports shall be submitted to the Department within the timelines specified in 42 C.F.R. § 483.374(b) and (c). A PRTF shall, upon a request by the Department or the State Survey Agency, provide the Department or the

State Survey Agency with copies of reports that were previously filed with the Department of Mental Health pursuant to Section 5.1 of the Regulation Establishing Standards for Emergency Involuntary Procedures of the Vermont Department of Mental Health

- 5.8.3 Within a week of receipt, the Vermont Department of Mental Health shall provide the Department with a redacted Critical Incident Report, filed pursuant to 18 V.S.A. § 7257(a), that resulted from an Emergency Involuntary Procedure. Additional information regarding the Critical Incident Report shall be provided to the Department upon request in accordance with Rule 5.8.1.

6.0 Complaint Process

6.1 Notice to Residents

Each Vermont PRTF shall

- 6.1.1 Distribute to all residents, upon admission on an inpatient basis, a plain language and easily readable print copy of the facility's complaint policy and a copy of the complaint form. For residents who are under 18 years of age or subject to guardianship, the policy and form shall also be provided to the resident's parent or guardian.
- 6.1.2 Post conspicuously the facility's complaint policy in areas frequented by residents and resident representatives and on the facility's website.
- 6.1.3 Provide during each annual licensure application its current procedure for informing residents of the complaint policy.

6.2 Procedures for Responding to Resident Complaints

A PRTF's complaint policy shall include the following minimum elements:

- 6.2.1 A description of the procedure for filing and appealing a complaint to the PRTF, clearly labeled, "To file a complaint" or "What to do if you are not satisfied with our response to your complaint". Other descriptors such as "resident concerns" or "consumer feedback" may be used, but only in addition to "To file a complaint" or "What to do if you are not satisfied with our response to your complaint."
- 6.2.2 A notice that a complainant may directly contact the Department, the Board of Medical Practice, or the licensing authorities for other health care professions as an alternative, or in addition, to the PRTF's complaint and

appeal procedures. The notice shall include the address and phone numbers for the Board of Medical Practice and the Office of Professional Regulation.

- 6.2.3 A published time frame for processing and resolving complaints and appeals within the PRTF and notice that further appeals may be made to the Department.
- 6.2.4 A notice that the PRTF has designated a qualified person or persons to act in the role of Mental Health Patient Representative. The notice shall include the title, qualifications, and general duties of the Representative(s) and the phone and e-mail contact information for the current Representative(s);
- 6.2.5 A description of internal procedures for receiving, processing, and resolving complaints from or filed on behalf of residents. Such procedures must ensure that the PRTF complies with the Conditions of Participation requirements for grievances.
- 6.2.6 Each PRTF shall be prepared to demonstrate to the Department that the facility has an adequate system to create and maintain records of complaints presented by residents and their representatives.

6.3 **Reporting Complaint Data**

At least annually, on a schedule and in a format acceptable to the Commissioner, a PRTF shall submit to the Department a report summarizing, in aggregate, the types of complaints filed with the PRTF by residents or their representatives in the past year. The report shall contain

- 6.3.1 The number of inpatient days for the reporting period;
- 6.3.2 The total number of complaints received;
- 6.3.3 The total number of complaints in each of the categories the PRTF uses to track complaints; and
- 6.3.4 A brief narrative report describing examples of actions taken to resolve complaints in the past year.

7.0 **Emergency Involuntary Procedures**

- 7.1 In accordance with 18 V.S.A. § 7621(e), this Rule incorporates the Regulation Establishing Standards for Emergency Involuntary Procedures of the Vermont Department of Mental Health (“Department of Mental Health Rule”), as it exists at the time of the adoption of this Rule and as may be amended from time to time.

- 7.2 In applying the Department of Mental Health Rule to situations involving a PRTF, the following adaptations are necessary.
- 7.2.1 Throughout the Department of Mental Health Rule “hospital” shall be read as “psychiatric residential treatment facility for youth.”
- 7.2.2 Throughout the Department of Mental Health Rule “hospitalized individuals” shall be read as “individuals being treated in a psychiatric residential treatment facility for youth.”
- 7.2.3 Section 1.1(e) shall be read as: “These rules apply to individuals being treated in a psychiatric residential treatment facility for youth.”
- 7.2.4 The statutory authority for adoption of the rule for psychiatric residential treatment facilities for youth is 18 V.S.A. § 7261(e).
- 7.2.5 At Section 2.2(h) “licensed under Chapters 23 or 33 of Title 26, Vermont Statutes Annotated” shall be inserted after “physician.” Section 2.2(j) shall be read as: “Physician assistant means an individual licensed by the Board of Medical Practice as a physician assistant. A physician assistant may prescribe, dispense, and administer drugs and medical devices so long as the act is within their education, training, and experience and not prohibited by their practice agreement.”
- 7.2.6 At Section 4.1(a), the final clause shall be replaced by the following: “who practices pursuant to a practice agreement with a psychiatrist.”

8.0 Enforcement

- 8.1 The Commissioner may use any and all powers granted under Title 18 of the Vermont Statutes Annotated in the course of monitoring, investigating, or otherwise ensuring compliance with the requirements of this Rule.
- 8.2 Notwithstanding a CMS-approved national accrediting body’s determination that a PRTF has met CoPs through surveys or Deemed Status, the Department or its designee may inspect, independently review, or investigate a PRTF at any time, to determine whether a PRTF is in compliance with requirements for PRTF licensure under Vermont law.
- 8.3 If the Department determines that a PRTF is not in full compliance with any requirements of this Rule, it shall notify the PRTF of the Deficiency.
- 8.4 When notified of a Deficiency, a PRTF shall within 10 business days, or such shorter period as may be specified in the notice for good cause, develop and submit a Plan of Correction for addressing any identified Deficiency and for

achieving compliance with this Rule.

8.5 Department Review and Response to Plan of Correction

8.5.1 The Department shall determine whether a Plan of Correction submitted pursuant to Rule 7.4 is sufficient to effectively address each identified Deficiency and bring the PRTF in compliance with the requirements of this Rule.

8.5.2 Within thirty (30) days after receipt of a Plan of Correction, the Department shall notify the PRTF related to each identified Deficiency that the Department:

8.5.2.1 Accepts the Plan of Correction; or

8.5.2.2 Requests a revision to the Plan of Correction specifying the reasons for the request.

8.5.3 A PRTF required to submit a revised Plan of Correction pursuant to Rule 8.5.2.2 shall develop and submit the revision within thirty (30) days during which time the Department shall make available a representative to review with the PRTF any proposed revisions.

8.6 If, after reviewing a revised Plan of Correction, the Department determines that a PRTF is not in full compliance with this Rule or cannot comply with this Rule or the PRTF's Plan of Correction, the Department may find that the PRTF is in violation or substantial violation of this Rule.

8.7 If the Department finds that a PRTF is in violation of this Rule it may, in accordance with Rules 8.9 and 9.0,

8.7.1 Modify a current license to make it subject to fulfillment of specified conditions, including requirements for the submission of written plans, progress reports and any other information required by the Department that demonstrates to the satisfaction of the Department and Commissioner that the PRTF is actively and effectively taking all necessary steps to comply with its license conditions;

8.7.2 Issue or renew a license subject to fulfillment of specified conditions, including requirements for the submission of written plans, progress reports and any other information required by the Department that demonstrates to the satisfaction of the Department and Commissioner that the PRTF is actively and effectively taking all necessary steps to comply with its license conditions; or

8.7.3 Issue a temporary license to the PRTF for a total period not to exceed thirty-

six consecutive months, specifying requirements for the submission of written plans, progress reports and any other information required by the Department that demonstrates to the satisfaction of the Department and Commissioner that the PRTF is actively and effectively taking all necessary steps to come into full compliance within the period of time permitted by the temporary license.

8.8 If the Department finds that a PRTF is in substantial violation of this Rule it may, in accordance with Rules 8.9 and 9.0,

8.8.1 Not issue or renew the PRTF's license;

8.8.2 Revoke the PRTF's license; and/or

8.8.3 Impose, or recommend that the Department impose, any other penalties permitted by law.

8.9 In the event that the Department intends to take any of the actions set forth in Rules 8.7 and 8.8 above, the following due process procedures consistent with 18 V.S.A. § 7261(f) and 3 V.S.A. Ch. 25 relating to contested cases, shall be followed:

8.9.1 Notice shall be served on the PRTF by registered mail or by personal service, setting forth detailed reasons for the proposed action, complying with 3 V.S.A. § 809(a), and fixing a date not less than sixty (60) days from the date of such mailing or service at which the PRTF shall be given opportunity for a hearing.

8.9.2 The PRTF may, within thirty (30) days after issuance of the decision of the Commissioner, appeal to the Vermont Superior Court in the county where the PRTF is located. The court may affirm, modify, or reverse the decision of the Commissioner and either the PRTF or the Department may appeal to the Vermont Supreme Court for such further review as is provided by law.

9.0 Informing Residents of Investigation Completion

Upon completion of an investigation and determination as to whether an action is to be pursued under Rules 8.7 or 8.8, the Department will provide the Complainant or his or her representative notice in writing. The notice shall state that the investigation is complete and whether a public proceeding regarding the license of the subject facility will result. Notice will be sent promptly and in no case more than 14 days after the determination is made and shall include the time and place of any public proceeding.

Psychiatric Residential Treatment Facility for Youth Licensing Rule

1.0 Authority

This Rule is adopted pursuant to 18 V.S.A. § 7261(e).

2.0 Purpose

This Rule sets forth the standards that apply to the licensing of psychiatric residential treatment facilities for youth (PRTF) in Vermont.

3.0 Definitions

- 3.1 “Accreditation” means the formal recognition by an approved accrediting body, such as the Joint Commission, that indicates conformity with the accrediting body’s required set of standards and criteria for a PRTF.
- 3.2 “CMS” means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.
- 3.3 “CMS Conditions of Participation for psychiatric residential treatment facilities for youth” or “CoPs” means 42 C.F.R. § 441.150-441.184 (Subpart D) and 42 C.F.R. § 483.350-483.376 (Subpart G) of the Code of Federal Regulations, as may be updated or amended, and related laws and regulations, interpretive guidelines, appendices, and requirements, except that 42 C.F.R. § 441.151(a)(3)(i) and (ii) (“...or, if the individual was receiving the services immediately before he or she reached age 21, before the earlier of the following— (i) The date the individual no longer requires the services; or (ii) The date the individual reaches 22...” shall not be included in the meaning of “CMS Conditions of Participation for psychiatric residential treatment facilities for youth” or “CoPs” as used in these Rules.
- 3.4 “Commissioner” means the Commissioner of the Vermont Department of Health.
- 3.5 “Deemed Status” means the status granted to a PRTF by a CMS-approved national accrediting body, such as the Joint Commission or other accrediting organization that has comparable standards and is recognized by the Commissioner of Mental Health, after it has surveyed the PRTF and determined it is in compliance with all CMS Conditions of Participation.
- 3.6 “Deficiency” means a policy, procedure, practice, or action by a PRTF that results in the facility not being in compliance with this Rule or with the CMS Conditions of Participation.
- 3.7 “Department” means the Vermont Department of Health.

- 3.8 “Psychiatric residential treatment facility for youth” or “PRTF” means a nonhospital, inpatient facility that holds accreditation to provide psychiatric services in a residential setting to youth, as defined herein, with complex mental health conditions under the direction of a physician.
- 3.9 “Joint Commission” means the independent not-for-profit organization that accredits and certifies that healthcare organizations meet certain quality and performance standards.
- 3.10 “Mental Health Patient Representative” or “Representative” means a person who advocates for and fosters communication with health care providers on behalf of patients pursuant to a contract with the Department of Mental Health, as called for by 18 V.S.A. § 7253(1)(J).
- 3.11 “Resident Complaint” means any expression of dissatisfaction with the care and treatment provided by a PRTF, from a resident or the resident’s Mental Health Patient Representative. In this Rule, the term includes a resident “grievance,” which in the CoPs and CMS State Operations Manual specifically refers to complaints presented to and resolved or attempted to be resolved within a facility’s internal system. It does not include matters that are resolved by staff present.
- 3.12 “Plan of Correction” means a written plan that a licensee is required to submit to address any identified Deficiency to bring a PRTF into compliance with this Rule.
- 3.13 “State Survey Agency” means the unit of Vermont state government designated by the Centers for Medicare and Medicaid Services to enforce the federal Conditions of Participation for hospitals and PRTFs in Vermont, which is the Vermont Department of Disabilities, Aging and Independent Living.
- 3.14 “Validation Survey” means a survey conducted by the State Survey Agency on behalf of CMS to ensure that a PRTF with Deemed Status is in compliance with the CMS conditions of participation.
- 3.15 “Youth” means a resident who is certified in writing to be in need of the services in the PRTF setting in accordance with 42 C.F.R. § 441.152;
- 3.15.1 who is at least 12-years-old and up to 18-years-old; and
- 3.15.2 who is at least 18-years-old and up to 21-years-old, if the resident
- 3.15.2.1 was receiving services in a PRTF at the time they reach age 18; and
- 3.15.2.2 continues to require the services provided at the PRTF.

4.0 Application for a Psychiatric Residential Treatment Facility for Youth License

- 4.1 No organization or individual may establish, conduct, or maintain operation of a PRTF in Vermont without being granted a license by the Vermont Department of Health.
- 4.2 Every Vermont PRTF license shall expire on December 31 of each year unless otherwise revoked.
- 4.3 An application for a PRTF license, or renewal of a license, shall be submitted in the form required by the Department and available on its webpage. Renewal applications shall be submitted on or before the date set by the Department.
- 4.4 Applications for an initial license and applications for license renewal shall contain all the information required by the Department. The required information shall include
 - 4.4.1 Identifying information and all facility locations.
 - 4.4.2 Administrative officers and contact information for the person completing the application.
 - 4.4.3 Type and form of organization, documentation of registered status as a nonprofit entity, and CMS designation.
 - 4.4.4 Certification and accreditation status.
 - 4.4.5 Numbers of beds.
 - 4.4.6 Verification of other statutory requirements.
 - 4.4.7 Information regarding the plan for handling of resident complaints and the staff member responsible for that program.
- 4.5 Applications for a PRTF license or renewal shall certify compliance with health, safety, and sanitary standards required by law.
- 4.6 Unless the Department specifies a different time or format for response, a PRTF that receives an inquiry from the Department regarding the licensing application shall furnish all information requested within ten (10) working days of receipt. Failure to meet submission deadlines may delay action on an application.

5.0 Requirements for Psychiatric Residential Treatment Facility for Youth Licensure in Vermont

5.1 Compliance with CMS Conditions of Participation

- 5.1.1 To be licensed and retain licensure in Vermont, each PRTF shall comply with all applicable CMS Conditions of Participation referenced in Rule 3.3 unless
 - 5.1.1.1 Operating under a Plan of Correction as described in Rule 8.4; or
 - 5.1.1.2 Operating under a waiver granted under Section 1135 of the Social Security Act during an emergency as defined in 42 U.S.C. § 1320b-5.
- 5.1.2 To demonstrate compliance with CoPs, each Vermont PRTF facility shall make the premises and appropriate staff available for a comprehensive, on-site and unannounced survey by the State Survey Agency
 - 5.1.2.1 Occurring on average once every five years or at a frequency determined by CMS;
 - 5.1.2.2 Whenever CMS requires a Validation Survey for an accredited PRTF with Deemed Status; or
 - 5.1.2.3 Whenever the Department or its designee determines that a survey is required as referenced in Rule 5.2.
- 5.1.3 As part of the annual PRTF licensing process, both for initial licenses and at renewal, each PRTF shall provide to the Department any documents necessary to verify for the Department that the PRTF has met the requirements of the CoPs.

5.2 Demonstrating Compliance with CMS CoPs by Deemed Status

- 5.2.1 As long as CMS recognizes that a PRTF accredited by the Joint Commission and with Deemed Status meets the compliance requirements of the CoPs, each accredited PRTF with Deemed Status shall be considered by the State Survey Agency and the Department to have met the CoPs unless and until their accreditation is revoked or cancelled.
- 5.2.2 If a PRTF relies on an accrediting body other than the Joint Commission to determine that it has met the CoPs, the PRTF shall provide verification that CMS has approved the accrediting body to authorize Deemed Status.
- 5.2.3 A PRTF with Deemed Status shall make the institution available for a Validation Survey by the State Survey Agency when CMS requires a Validation Survey.

- 5.3 A PRTF license is not transferable or assignable and shall be issued only for the premises and persons named in the application. A licensed PRTF contemplating a change of ownership, or the elimination or significant reduction of clinical services shall provide at least ninety (90) days advance notice to the Department.
- 5.4 The PRTF license shall be posted in a conspicuous place on the licensed premises.
- 5.5 A PRTF shall follow up with residents within 72 hours of discharge. This shall be done by the most effective means possible including via email, text, or phone. A PRTF shall continue to follow up with the resident until either contact is made, or at least 5 attempts every 24 hours for up to 72 hours have been made and documented.

5.6 Health and Life Safety and Other Regulatory Requirements

In addition to conforming to all CoPs, each Vermont PRTF seeking licensure shall comply with all applicable current state and municipal laws including, but not limited to, the Department of Public Safety Rules on Vermont Fire and Building Safety Codes and other Vermont laws related to food safety.

5.7 Emergency Preparedness Planning

- 5.7.1 Each Vermont PRTF shall have an Emergency Preparedness Plan as required by CMS regulations at 42 C.F.R. § 441.184 and the associated guidelines.
- 5.7.2 A PRTF that is affiliated with a Vermont-licensed hospital may satisfy the requirement for an Emergency Preparedness Plan as a participant in the hospital's Emergency Preparedness Plan if the requirements of 42 C.F.R. § 441.184(e) are met.
- 5.7.3 Each PRTF shall provide a copy of its Emergency Preparedness Plan to the Department for review if requested.

5.8 Reporting of Events to the Department

- 5.8.1 A PRTF shall provide the Department with a copy of any report that is required to be filed with the Vermont's State Medicaid Agency, the Department of Vermont Health Access, pursuant to 42 C.F.R. § 483.374.
- 5.8.2 Reports shall be submitted to the Department within the timelines specified in 42 C.F.R. § 483.374(b) and (c). A PRTF shall, upon a request by the Department or the State Survey Agency, provide the Department or the

State Survey Agency with copies of reports that were previously filed with the Department of Mental Health pursuant to Section 5.1 of the Regulation Establishing Standards for Emergency Involuntary Procedures of the Vermont Department of Mental Health

- 5.8.3 Within a week of receipt, the Vermont Department of Mental Health shall provide the Department with a redacted Critical Incident Report, filed pursuant to 18 V.S.A. § 7257(a), that resulted from an Emergency Involuntary Procedure. Additional information regarding the Critical Incident Report shall be provided to the Department upon request in accordance with Rule 5.8.1.

6.0 Complaint Process

6.1 Notice to Residents

Each Vermont PRTF shall

- 6.1.1 Distribute to all residents, upon admission on an inpatient basis, a plain language and easily readable print copy of the facility's complaint policy and a copy of the complaint form. For residents who are under 18 years of age or subject to guardianship, the policy and form shall also be provided to the resident's parent or guardian.
- 6.1.2 Post conspicuously the facility's complaint policy in areas frequented by residents and resident representatives and on the facility's website.
- 6.1.3 Provide during each annual licensure application its current procedure for informing residents of the complaint policy.

6.2 Procedures for Responding to Resident Complaints

A PRTF's complaint policy shall include the following minimum elements:

- 6.2.1 A description of the procedure for filing and appealing a complaint to the PRTF, clearly labeled, "To file a complaint" or "What to do if you are not satisfied with our response to your complaint". Other descriptors such as "resident concerns" or "consumer feedback" may be used, but only in addition to "To file a complaint" or "What to do if you are not satisfied with our response to your complaint."
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- 6.2.5 A description of internal procedures for receiving, processing, and resolving complaints from or filed on behalf of residents. Such procedures must ensure that the PRTF complies with the Conditions of Participation requirements for grievances.
- 6.2.6 Each PRTF shall be prepared to demonstrate to the Department that the facility has an adequate system to create and maintain records of complaints presented by residents and their representatives.

6.3 Reporting Complaint Data

At least annually, on a schedule and in a format acceptable to the Commissioner, a PRTF shall submit to the Department a report summarizing, in aggregate, the types of complaints filed with the PRTF by residents or their representatives in the past year. The report shall contain

- 6.3.1 The number of inpatient days for the reporting period;
- 6.3.2 The total number of complaints received;
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- 6.3.4 A brief narrative report describing examples of actions taken to resolve complaints in the past year.

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- 7.2 In applying the Department of Mental Health Rule to situations involving a PRTF, the following adaptations are necessary.
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 - 7.2.2 Throughout the Department of Mental Health Rule “hospitalized individuals” shall be read as “individuals being treated in a psychiatric residential treatment facility for youth.”
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 - 7.2.4 The statutory authority for adoption of the rule for psychiatric residential treatment facilities for youth is 18 V.S.A. § 7261(e).
 - 7.2.5 At Section 2.2(h) “licensed under Chapters 23 or 33 of Title 26, Vermont Statutes Annotated” shall be inserted after “physician.” Section 2.2(j) shall be read as: “Physician assistant means an individual licensed by the Board of Medical Practice as a physician assistant. A physician assistant may prescribe, dispense, and administer drugs and medical devices so long as the act is within their education, training, and experience and not prohibited by their practice agreement.”
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8.0 Enforcement

- 8.1 The Commissioner may use any and all powers granted under Title 18 of the Vermont Statutes Annotated in the course of monitoring, investigating, or otherwise ensuring compliance with the requirements of this Rule.
- 8.2 Notwithstanding a CMS-approved national accrediting body’s determination that a PRTF has met CoPs through surveys or Deemed Status, the Department or its designee may inspect, independently review, or investigate a PRTF at any time, to determine whether a PRTF is in compliance with requirements for PRTF licensure under Vermont law.
- 8.3 If the Department determines that a PRTF is not in full compliance with any requirements of this Rule, it shall notify the PRTF of the Deficiency.
- 8.4 When notified of a Deficiency, a PRTF shall within 10 business days, or such shorter period as may be specified in the notice for good cause, develop and submit a Plan of Correction for addressing any identified Deficiency and for

achieving compliance with this Rule.

8.5 Department Review and Response to Plan of Correction

8.5.1 The Department shall determine whether a Plan of Correction submitted pursuant to Rule 7.4 is sufficient to effectively address each identified Deficiency and bring the PRTF in compliance with the requirements of this Rule.

8.5.2 Within thirty (30) days after receipt of a Plan of Correction, the Department shall notify the PRTF related to each identified Deficiency that the Department:

8.5.2.1 Accepts the Plan of Correction; or

8.5.2.2 Requests a revision to the Plan of Correction specifying the reasons for the request.

8.5.3 A PRTF required to submit a revised Plan of Correction pursuant to Rule 8.5.2.2 shall develop and submit the revision within thirty (30) days during which time the Department shall make available a representative to review with the PRTF any proposed revisions.

8.6 If, after reviewing a revised Plan of Correction, the Department determines that a PRTF is not in full compliance with this Rule or cannot comply with this Rule or the PRTF's Plan of Correction, the Department may find that the PRTF is in violation or substantial violation of this Rule.

8.7 If the Department finds that a PRTF is in violation of this Rule it may, in accordance with Rules 8.9 and 9.0,

8.7.1 Modify a current license to make it subject to fulfillment of specified conditions, including requirements for the submission of written plans, progress reports and any other information required by the Department that demonstrates to the satisfaction of the Department and Commissioner that the PRTF is actively and effectively taking all necessary steps to comply with its license conditions;

8.7.2 Issue or renew a license subject to fulfillment of specified conditions, including requirements for the submission of written plans, progress reports and any other information required by the Department that demonstrates to the satisfaction of the Department and Commissioner that the PRTF is actively and effectively taking all necessary steps to comply with its license conditions; or

8.7.3 Issue a temporary license to the PRTF for a total period not to exceed thirty-

six consecutive months, specifying requirements for the submission of written plans, progress reports and any other information required by the Department that demonstrates to the satisfaction of the Department and Commissioner that the PRTF is actively and effectively taking all necessary steps to come into full compliance within the period of time permitted by the temporary license.

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8.8.1 Not issue or renew the PRTF's license;

8.8.2 Revoke the PRTF's license; and/or

8.8.3 Impose, or recommend that the Department impose, any other penalties permitted by law.

8.9 In the event that the Department intends to take any of the actions set forth in Rules 8.7 and 8.8 above, the following due process procedures consistent with 18 V.S.A. § 7261(f) and 3 V.S.A. Ch. 25 relating to contested cases, shall be followed:

8.9.1 Notice shall be served on the PRTF by registered mail or by personal service, setting forth detailed reasons for the proposed action, complying with 3 V.S.A. § 809(a), and fixing a date not less than sixty (60) days from the date of such mailing or service at which the PRTF shall be given opportunity for a hearing.

8.9.2 The PRTF may, within thirty (30) days after issuance of the decision of the Commissioner, appeal to the Vermont Superior Court in the county where the PRTF is located. The court may affirm, modify, or reverse the decision of the Commissioner and either the PRTF or the Department may appeal to the Vermont Supreme Court for such further review as is provided by law.

9.0 Informing Residents of Investigation Completion

Upon completion of an investigation and determination as to whether an action is to be pursued under Rules 8.7 or 8.8, the Department will provide the Complainant or his or her representative notice in writing. The notice shall state that the investigation is complete and whether a public proceeding regarding the license of the subject facility will result. Notice will be sent promptly and in no case more than 14 days after the determination is made and shall include the time and place of any public proceeding.



STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

A handwritten signature in blue ink, appearing to be 'Jenney Samuelson', written over the 'FROM' line.

DATE: November 21, 2024

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

I hereby designate Kristin McClure, Deputy Secretary, Agency of Human Services as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedures Act, 3. V.S.A § 801 et seq.

CC: KristinMcClure@vermont.gov