

AGENCY FOR PERSONS WITH DISABILITIES
STATEMENT OF ESTIMATED REGULATORY COSTS

Rules 65G-2.002, 2.0021, 2.003, 2.0032, 2.004, 2.0041, 2.005, 2.006, 2.007,
2.0071, 2.0072, 2.0073, 2.0074, 2.008, 2.009, 2.010, 2.014, 2.015 and 2.017, F.A.C.

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.]
(See Section E. below for definition of small business.)

Yes ☐

No ☒

If the answer to Question 1 is “yes,” see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes ☐

No ☒

If the answer to either question above is “yes,” a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

- (1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth

Yes ☐ No ☒

Private-sector job creation or employment

Yes ☐ No ☒

Private-sector investment

Yes ☐ No ☒

- (2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)

Yes ☐ No ☒

Productivity

Yes ☐ No ☒

Innovation

Yes ☐ No ☒

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes ☐ No ☒

Economic Analysis: The majority of the amendments to the rules in Chapter 65G-2, F.A.C., consist of reorganization and clarification of language for which there is no transactional or regulatory cost. This includes removing all language from Rule 65G-2.017, which is being repealed, and redistributing it to other rules within this Chapter to streamline and improve organizational clarity. Rule 65G-2.014 is being repealed as licensure of CTEPs was removed from the authorizing statute, (notably, there are no CTEPs in Florida). Language regarding classification of disciplinary actions throughout the Chapter is being removed, which is being replaced with a disciplinary chart that is to be adopted into Rule 65G-2.0041.

APD took this opportunity to engage stakeholders through outreach and multiple workshops to update rules that have not been touched in more than a decade. The proposed rule amendments will remove unnecessary burdens while strengthening protections for facility residents and ADT program participants.

To help analyze the impact of the proposed rule amendments, the Agency sent all licensed groups a link to a survey seeking data from providers relating to some of the proposed changes. The questions relate to proposals that are transactional in nature to evaluate cost increases or reductions. Only residential facilities were targeted as those entities would primarily be the ones affected by the proposed rule amendments. At the time of issuance, there were 2,345 facilities. The Agency received 424 responses. The Agency needed a sample of 331 responses to reach a statistical reliability and validity threshold.

The survey questions provided yes/no or multiple-choice options that listed option ranges (e.g., a. 0-\$100, b. \$101-\$300, or etc.).

New Requirement: Must provide written disclosure to current/prospect residents possibility of lead-based paint if the home is constructed before 1978. How this written notice is provided is up to the facility, i.e., it may be included within the lease agreements, posted in the home, emailed, made part of any welcome packet, etc... .

23% of homes were constructed before 1978

55% of such homes (or 13% of total facilities) did not already provide notice.

Estimate annual cost: **\$1,066.98** = [15 minutes *(13%*2,345)/60] * \$14/hr

New Requirement: Facilities must maintain an up-to-date census of residents. 85.6% of facilities already maintain a census of residents, leaving 14.4% of facilities who do not. Of the 85.6% of those who already keep a census, 69% will need to be updated to include one or more of the 4 elements within the proposed Rule. The typical facility houses 4-6 individuals (81% of respondents). The four data elements (names, dates of birth, client level of waiver services reimbursement, and client eligibility diagnosis) are readily and easily accessible by the facility. It took ~40 seconds per client to acquire the data. For a facility with 6 residents, it took 4-5 minutes to create a list with all required elements. To update one

or two missing elements on the census per client it will be estimated to take, at most ½ the time or 2.5 minutes.

Initial one-time update cost:

$[338(\text{facilities w/o a prior census}) * 5 \text{ minutes}] / 60 = 28.17 \text{ hrs}$

$[1,385(\text{facilities with census but missing data point}) * 2.5 \text{ minutes}] / 60 = 57.70 \text{ hrs}$

$28.17 + 57.70 = 85.87 \text{ hr} * \$14/\text{hr} = \underline{\$1,202.18}$

Maintaining cost:

This is whenever a change in census occurs, i.e., new or departing resident. It took no more than 40 seconds to update for one new resident. Time to delete data for a departing resident was negligible.

40% of facilities report that they update their census 0-3 times a year, 16.3% 4-6 times a year, 21.5% said 11-14 each year, 3% said 7-10, and 2.6% said greater than 14 times each year.

$[2,345 * 6(\text{average number of updates per year}) * 40 \text{ seconds} / 3600] * \$15.00/\text{hr} = \underline{\$2,345}$

New Requirement:

The amended rules clarify that bunk beds, cots, and inflatable mattresses are not considered to be “individual beds”. The exception for bunk beds was removed. Cots and inflatable mattresses were never considered individual beds, but were not provided in the list of examples. Those were added for clarification. Enclosed beds are allowed, but only if medically necessary, under the proposed rules. Only 0.7% of group homes claimed to use bunk beds. Those homes on average claimed to use two bunk beds. A single bed is available for To replace them with single beds would come to an estimate of $\underline{\$5,252.08} = 2 \text{ beds} * \$160 \text{ per bed} * (.007[\text{number of group homes with a bunk bed}] * 2,345)$

New Requirement:

Facilities must inform APD whenever their air conditioning unit is in disrepair and the air temperature within the home falls outside the 60 to 80 degree Fahrenheit range.

44% reported at least one instance per year where this may occur. Notification would take no more than 30 seconds.

$(2,345 * .44 * 30 \text{ seconds}) / 3600 * \$15/\text{hr} = \underline{\$129}$

Reduced Regulatory Burden:

Licensees will no longer be required to create menus that with consultation with a dietician.

Reduced Regulatory Burden:

Currently ADTs must have 2 toilets and 2 sinks for every 25 participants. The proposed amendments change this to every 50 participants. This removes a significant cost burden for ADTs seeking to become licensed under section 393.067, F.S.

New Requirement:

Licensees that transport residents must account for the number of residents at the start and end of each trip to ensure that no one is left behind or left in the vehicle. The following calculation is based on the average number of trips (10.4) multiplied by the time necessary to notate time and date for each trip and the name of the passengers. Facilities are free to create a printable list of residents and simply check off names as they enter and depart from the vehicle. The time needed to check off names of up to 6 individuals and to note the time and

date, and the signature per trip should not take more than 28 seconds. $([2,345 \times 28 \text{ seconds} \times 10.4 \text{ trips}] / 3600) \times \$15/\text{hr} = \underline{\$2,845.27}$

New Requirement: providers that transport residents must regularly maintain those vehicles and keep documentation for 12 months. 11 respondents stated that they do not regularly maintain their vehicle. Not only should vehicles used to transport clients be maintained for health and safety reasons, but regular vehicle maintenance is less costly than not maintaining a vehicle that is used on a regular basis. Thus, the only cost consideration is maintaining the documentation of vehicle maintenance. Only 16.5% of respondents do not maintain these records. Autobody shops freely provide receipts documenting the service of the vehicle.

New Requirement:

Facilities that choose to use video monitoring must preserve for 30 days video footage that captures any critical incident or any incident subject to a law enforcement or DCF investigation. Use of video monitoring is voluntary. Facilities are free to not utilize video monitoring. For those who currently do so, this requirement only applies to distinct circumstances that are not part of the daily business operations of the facility. Furthermore, preservation of such footage can be accomplished by downloading that footage of that distinct incident separate from any subscribed service (e.g., downloading onto a thumb drive).

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

There are 2345 licensed residential facilities and 311 Adult Day Training (“ADT”) programs

(2) A general description of the types of individuals likely to be affected by the rule.

The affected entities include owners and operators of licensed residential facilities and of adult training programs which serve individuals with intellectual and developmental disabilities.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the agency to implement and enforce the rule.

- ☒ None. To be done with the current workload and existing staff.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- ☒ None. The rule will only affect the agency.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- ☒ None.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. “Transactional costs” may include the following: filing fees; expenses to obtain a license; necessary equipment; installation, utilities for, and maintenance of necessary equipment; necessary operations or procedures; accounting, financial, information management, and other administrative processes; labor, based on relevant wages, salaries, and benefits; materials and supplies; capital expenditures, including financing costs; professional and technical services, including contracted services necessary to implement and maintain compliance; monitoring and reporting; qualifying and recurring education, training, and testing; travel; insurance and surety requirements; a fair and reasonable allocation of administrative costs and other overhead; reduced sales or other revenue; or other items suggested by the rules ombudsman in the Executive Office of the Governor or by any interested person, business organization, or business representative. [120.541(2)(d), F.S.]

- ☐ None. The rule will only affect the agency.
- ☒ Minimal. Provide a brief explanation. [The potential transactional costs are described in A.3., above.](#)
- ☐ Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, small counties, and small cities: [120.541(2)(e), F.S.]

(1) “Small business” is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole

proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- ☐ No adverse impact on small business.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

(2) A “Small City” is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A “small county” is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- ☒ No impact on small cities or small counties.
- ☐ Minimal. Provide a brief explanation.
- ☐ Other. Provide an explanation for estimate and methodology used.

F. In evaluating the impacts described in paragraphs A and E, include a discussion, if applicable, of the market impacts likely to result from compliance with the proposed rule, including: [120.541(2)(f), F.S.]

1. Changes to customer charges for goods or services.
2. Changes to the market value of goods and services produced, provided, or sold.
3. Changes to costs resulting from the purchase of substitute or alternative goods or services.
4. The reasonable value of time to be spent by owners, officers, operators, and managers to understand and comply with the proposed rule, including, but not limited to, time to be spent completing required education, training, or testing.

Discussion and Analysis of Market Impacts: [The proposed changes will not have an impact on the market.](#)

G. Any additional information that the agency determines may be useful. [120.541(2)(g), F.S.]

- ☐ None.

Additional Information: [The rulemaking reorganizes, consolidates, clarifies and strengthens /enhances / the safety and health of residents of residential facilities and participants in adult day training programs. Rule 65G-2.017, Health Safety Standards for Licensed Facilities, will be repealed because its provisions are being transferred to other rules. Rule 65G-2.014, Comprehensive Transitional Education Program Standards, will be repealed because the statutory authority, section 393.18, F.S., was](#)

repealed. The rulemaking creates new Rule 65G-2.0021, Change of Ownership, which sets forth a notice and application process to provide transparency when a licensee sells or otherwise transfers its ownership interest in the licensed entity to another individual or entity. The proposed rules clarify responsibilities when the licensee transports residents using licensee-operated vehicles. The changes include provisions to keep passengers safe by implementing safeguards to ensure clients are not left in the vehicle. The proposed rules clarify the use and storage of video footage only when an incident occurs. Licensees will no longer have to complete a calculation of capacity form; the Agency will perform that task based on information the licensee already provides during the application process. The proposed rules add detail to existing temperature control, portable heater safety, and pool safety provisions. Stakeholders requested clarification to the application process, and therefore the rule includes changes aimed to do so.

H. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(h), F.S.]

- ☒ No regulatory alternatives were submitted.
- ☐ A regulatory alternative was received from
- ☐ Adopted in its entirety.
- ☐ Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.