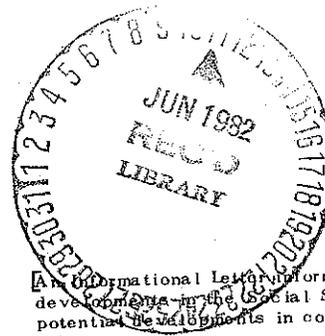


NEW YORK STATE

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET, ALBANY, NEW YORK 12243

BARBARA B. BLUM
Commissioner



[An Informational Letter informs local districts of potential developments in the Social Services field, or of actual or potential developments in collateral fields of interest.]

INFORMATIONAL LETTER

TRANSMITTAL NO.: 82 INF-12
[Services]

TO: Commissioners

SUBJECT: Residential Treatment Facilities
for Children and Youth

DATE: May 21, 1982

SUGGESTED DISTRIBUTION: Commissioner
Director of Services
All Foster Care Staff
All Child Protective Services Staff
Medical Assistance Services Workers
Accounting and Claims Staff

CONTACT PERSON: All inquiries regarding this release should be directed to Mr. H. A. Harkess, Bureau of Policy Planning, Division of Services, 40 North Pearl Street, Albany, New York 12243 or by calling toll free 1-800-342-3715, extension 4-9574.

I. PURPOSE

The purpose of this release is to inform local districts of provisions contained in Chapter 947, Laws of 1981 which establishes a new category of care, the "Residential Treatment Facility for Children and Youth."

II. BACKGROUND

Historically, State Mental Hygiene Law has provided for seriously disturbed, mentally ill, mentally retarded or developmentally disabled children through authorizations for placements in hospitals or institutional facilities of the Department of Mental Hygiene and/or its two offices, the Office of Mental Health and the Office of Mental Retardation and Development Disabilities. In recent years, recognition of a need for non-institutional and/or less comprehensive facilities for the less severely retarded or developmentally disabled adult has resulted in the legislative authorization for and the development of the Intermediate Care Facility for the Mentally Retarded or ICF/MR. There was, however, no comparable provision for the emotionally disturbed or mentally ill

FILING REFERENCES

Previous INFs/ADMs	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous References
		SSL2 FCA 760		MHL 1.03
		SSL 153 FCA 768		MHL 9.13(a)
		SSL 358-a		MHL 9.27(b)
		SSL 367-a		MHL 9.53
		SSL 372 FCA 1055		MHL 31.02(a)
		SL 384-a		MHL 31.26
		SL 392		MHL 33.13
		SL 400		MHL 43.02
		SL 460(e)		EX-L.517
		CA 752		

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child or youth whose condition was not serious enough to warrant placement in a hospital, psychiatric center or other institutional facility but who was too seriously disturbed to remain at home, in regular foster care or in a group care placement. Such facilities as did exist for this type of care and treatment were out of state. Placements were made to such facilities when it could be determined to be in the best interest of the child, but they were frequently high in cost both in dollars and on human terms, when children were not close enough to home for easy visitation or other contact with their families. There was clearly a need to develop within New York State a new class of care to provide care and treatment for such children at a level between the mental health institution and general foster care.

III. PROGRAM IMPLICATIONS

Chapter 947 of the Laws of 1981 contains provisions that are intended to meet this need. It establishes a category of care and type of facility to be known as the "Residential Treatment Facility for Children and Youth" or RTF. RTF's will be licensed, supervised and inspected by the Office of Mental Health of the Department of Mental Hygiene and will provide for care and treatment for the seriously, but not severely or dangerously, emotionally disturbed or mentally ill child.

By definition, an RTF is an inpatient psychiatric facility which provides treatment under the direction of a physician for individuals who are under twenty-one years of age, although a child or youth who during the course of treatment attains the age of twenty-one may continue to receive services in the RTF until the age of twenty-two. RTF's may be operated only by not-for-profit organizations. An authorized agency, as that term is defined in the Social Services Law, may operate an RTF, subject to regulations of the Office of Mental Health and the provisions of a cooperative agreement to be entered into between the Commissioner of Mental Health and the Commissioner of Social Services.

For children under sixteen years of age, voluntary placement in an RTF may be made pursuant to a court order, an instrument transferring custody and guardianship of a child to a social services official or authorized agency pursuant to Social Services Law 384-a, the application of a parent, legal guardian or next-of-kin, the application of a social services official or authorized agency having care and custody of a child committed pursuant to Social Services Law, the application of the Director of the Division for Youth, or the application of any person or entity having custody of the child pursuant to an order issued under Section 1055 of the Family Court Act. For a person over sixteen years of age but under eighteen, voluntary placements may be made to an RTF upon the applications of same parties with the consent of the child or upon the application of a child himself. Acceptance of the voluntary application of a child himself is at the discretion of the Director of the RTF. Because there are no

other provisions relating to over-18 year olds made in the statute, it is apparent that admission of a child or youth over eighteen years of age as a voluntary patient shall be only upon the written application of the child or youth himself. Involuntary placements may be made to RTF's in the same way as involuntary placements to hospitals or psychiatric centers and require compliance with the applicable provision of Mental Hygiene Law regarding civil commitment and involuntary placement.

Admission or transfer to an RTF, whether as a voluntary placement or involuntary commitment, requires the approval of a pre-admission certification committee. Pre-admission certification committees will be established on a geographic basis by the Commissioner of Mental Health. Each committee will consist of three persons, with the Commissioner of Mental Health, Social Services and Education each designating one person to each committee.

Appointments to the committees must take into account the interests of the people in the area served by the RTF. The Commissioner of Social Services shall consult with local commissioners of social services prior to appointing a member to a committee covering an area serving a district or districts.

The specific changes made to Social Services Law and which affect local social services districts are set out below.

Chapter 947 amends Section 2 of Social Services Law by adding the definition for RTF to the general definitions contained therein.

The new chapter law adds a new paragraph 12 to Section 153 of Social Services Law to provide for 100% state reimbursement for tuition expenditures made by a local district pursuant to Section 4004 of Education Law for children in an RTF who were not placed by a social services district, the Division for Youth or the Family Court.

Section 367-a of the Social Services Law is amended to provide that "no government agency," including a local social services district, shall make any payments for services in an RTF unless the RTF, at the time the services were provided, possessed a valid operating certificate. Likewise, no payment shall be made unless a child in placement was certified for care and treatment in the RTF by the pre-admission certification committee.

Section 400 of Social Services Law, pertaining to removals of children from foster care placements by a social services official, is amended to provide that a child placed in an RTF may be removed only upon the written authorization, i.e. consent, of the medical director of the RTF. A medical director's refusal of such an authorization can only be because involuntary treatment is required. In such a case, the director of the RTF is instructed to institute necessary civil commitment proceedings.

Section 384-a of Social Services Law is amended to provide specific relief to the social services commissioner who, in seeking to return a child who has been in an RTF to the child's parent or guardian, is prevented from doing so by the action of the medical director of the RTF who refuses to authorize the child's removal from the RTF pursuant to the Section 400 provisions noted in the paragraph just above. Chapter 947 amends Section 384-a by adding a new paragraph d to provide that, in such an instance, the child shall nonetheless be deemed to have been returned to the parent. The amendment also provides that in such cases, expenditures for the child's care and maintenance shall continue to be eligible for state reimbursement.

Besides these amendments to Social Services Law which obviously affect the Department and local districts, Chapter 947 also contains other provisions that will affect local districts. In particular, the statute provides that a child or youth in an RTF who is in the custody of a social services official, the Director of the Division for Youth or an authorized agency may only be released to the social services official, the Director of the Division for Youth, or the authorized agency having custody of the child. These same provisions also require that prior to the release or discharge of a child or youth from an RTF, the RTF must advise and plan with the social services official, the Division for Youth or the authorized agency for the child's discharge, including any necessary placement upon the child's release or discharge from the RTF.

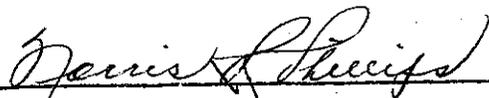
Another provision of Chapter 947 makes amendments to Section 760 of the Family Court which affect local social services districts regarding the placement and custody of certain juvenile delinquents. The revised Section 760 provides that a Family Court placement of an adjudicated juvenile delinquent found to have mental illness, mental retardation, or developmental disability which is likely to result in serious harm to himself or others may be made to a social services commissioner only with such commissioner's consent. Such a placement, moreover, shall only be as part of an order directing the temporary transfer of the custody of the child or youth to the Commissioner of Mental Health or to the Commissioner of Mental Retardation and Developmental Disabilities for the purpose of admission to an appropriate facility of the Department of Mental Hygiene, which may include placement in an RTF. The period of such a temporary transfer may not be for more than one year. However, within that year, a child or youth may be transferred back to the Division for Youth or the local commissioner of social services whenever appropriate. Any child who was in custody of a local commissioner of social services when placed in an RTF and who is returned from the RTF may only be returned to the custody of the local commissioner. Within thirty days of the child's transfer back, the local commissioner must apply to the placing court for a further dispositional hearing to determine terms of an appropriate order of disposition, pursuant to Section 753 of the Family Court Act.

IV. RECOMMENDATIONS

As there are presently no Residential Treatment Facilities in New York State, no action is required of or recommended for local districts at this time. The purpose of this Information Letter has been to advise local districts and other interested parties of the provisions that will relate to the development of the RTF program.

In summary, an RTF will be essentially a medical and psychiatric facility and placement therein will be for these purposes. RTF's will not be facilities for routine foster care placement nor will they be available for placements of hard-to-handle children who are not diagnosed as emotionally disturbed or mentally ill. RTF's will also not be appropriate for severely disturbed children or youth whose mental illness presents a likelihood of serious harm to themselves or to others.

The Office of Mental Health in the Department of Mental Hygiene, in consultation with the Department of Social Services, the State Education Department and the Department of Health, is developing regulations for the licensing, certification and operation of RTF's, including guidelines for placement. These regulations are expected to be completed by July 1982 with the first operational RTF's in place in Fall 1982. As these regulations and guidelines are completed, additional releases will be issued by the Office of Mental Health and the Department of Social Services to advise and direct local districts and authorized agencies in making appropriate referrals or placements in available RTFs.



Norris P. Phillips
Deputy Commissioner for Services

