



**Written Testimony of Tides Family Services
Before the House Committee on Health and Human Services
Regarding H7949 – Licensing of Mobile Response and Stabilization Services (MRSS)**

March 12, 2026

Chairwoman Donovan and Members of the Committee:

Tides Family Services respectfully submits this written testimony regarding House Bill 7949, which would authorize the Department of Children, Youth and Families (DCYF) to license Mobile Response and Stabilization Services (MRSS).

Tides strongly supports the continued development of a comprehensive crisis response system for children and families in Rhode Island. However, the manner in which the Executive Office of Health and Human Services (EOHHS) and DCYF are currently proceeding raises serious legal, procedural, and institutional concerns. In particular, DCYF has initiated rulemaking to establish a licensing framework for MRSS providers before the General Assembly has enacted legislation authorizing the Department to do so.

This sequence of events raises significant questions regarding the Department's statutory authority, the scope of permissible agency rulemaking under Rhode Island administrative law, and the appropriate balance between legislative policymaking and executive implementation.

For the reasons outlined below, Tides urges the Committee to carefully examine both the proposed legislation and the regulatory process currently underway.

I. DCYF Does Not Currently Possess Clear Statutory Authority to License MRSS Providers

DCYF's licensing authority is governed by R.I. Gen. Laws Chapter 42-72.1, entitled "*Licensing and Monitoring of Child Placing Agencies, Child Caring Agencies, Foster and Adoptive Homes, and Children's Behavioral Health Programs.*"

Under §42-72.1-3, DCYF may issue, deny, revoke, and monitor licenses for specific categories of programs and placements serving children, including:

- child-placing agencies
- child-caring agencies
- foster homes
- adoptive homes
- children's behavioral health programs.



Notably, Mobile Response and Stabilization Services are not included among the categories that DCYF is currently authorized to license.

House Bill 7949 would amend the statute to explicitly add MRSS to the list of programs subject to DCYF licensure. The introduction of this legislation strongly suggests that the Department recognizes that existing law does not clearly provide the authority necessary to license MRSS providers. If DCYF already possessed such authority under current statutes, this legislation would be unnecessary.

II. DCYF Has Initiated Rulemaking to License MRSS Providers Despite the Absence of Clear Statutory Authority

Despite the absence of explicit statutory authority, DCYF and EOHHS have initiated rulemaking to promulgate regulations establishing a licensure framework for MRSS providers.

Those proposed regulations appear to create a comprehensive regulatory structure governing the operation of MRSS services in Rhode Island.

The rulemaking therefore presumes the existence of licensing authority that the General Assembly has not yet granted.

Under Rhode Island administrative law, agencies may only promulgate regulations within the scope of authority delegated to them by statute. Administrative rulemaking cannot be used to create new regulatory authority where none has been granted by the legislature.

If DCYF lacks statutory authority to license MRSS providers, then promulgating regulations establishing such a licensing system raises serious concerns that the Department may be acting beyond the scope of its delegated authority.

III. Rhode Island Administrative Law Limits Agency Rulemaking to Authority Granted by the Legislature

The Rhode Island Administrative Procedures Act (R.I. Gen. Laws §42-35) governs the adoption of administrative regulations by state agencies.

Under well-established principles of administrative law, agencies may promulgate rules only when those rules:

1. fall within the authority delegated by statute; and
2. are consistent with legislative intent.



Rhode Island courts have repeatedly held that administrative agencies may not expand their own jurisdiction through regulation or create regulatory authority that the legislature has not granted. When an agency adopts regulations beyond its statutory authority, those regulations are considered ultra vires and may be subject to judicial invalidation.

In this instance, because the existing statutory framework does not clearly authorize DCYF to license MRSS providers, the Department's decision to promulgate MRSS licensing regulations prior to the enactment of H7949 raises significant questions about whether the rulemaking exceeds the authority delegated to the agency by the General Assembly.

IV. The Proposed Regulations Establish Major Policy Decisions That Should Be Determined by the Legislature

Beyond the question of statutory authority, the proposed MRSS regulations appear to establish significant policy decisions regarding the structure of Rhode Island's children's behavioral health crisis response system.

Among other things, the regulations appear to:

- align MRSS service areas with the geographic regions of Certified Community Behavioral Health Clinics (CCBHCs);
- require operational relationships between MRSS providers and CCBHCs;
- establish statewide coordination and mutual-aid obligations among providers; and
- define the operational framework through which mobile crisis services must be delivered.

These provisions go far beyond routine licensing standards.

They effectively determine how Rhode Island's children's behavioral health crisis response system will be organized, which entities may participate in that system, and how crisis services will be delivered throughout the state.

Those are major policy decisions, not merely technical regulatory details.

Traditionally, policy decisions of this magnitude are established by the General Assembly through legislation, with administrative agencies subsequently promulgating regulations to implement those statutory directives.

V. The Current Sequence of Events Raises Separation of Powers Concerns

The Rhode Island Constitution divides governmental authority among the legislative, executive, and judicial branches. The legislature is responsible for establishing public policy through statutes, while executive agencies are responsible for implementing those policies.



Administrative agencies may fill in technical details necessary to implement legislative policy, but they may not create new policy frameworks absent legislative authorization.

Here, the sequence of events is troubling:

1. DCYF and EOHHS initiated rulemaking to establish MRSS licensure standards and operational structures.
2. The General Assembly is now being asked to enact legislation granting explicit authority for that licensing.

This sequence creates the appearance that the executive branch is attempting to establish the policy framework through regulation first and obtain legislative ratification afterward.

Such an approach risks undermining the constitutional balance between legislative policymaking and executive implementation.

The General Assembly should not be placed in the position of approving statutory authority for a system whose structure has already been defined through administrative rulemaking.

VI. The General Assembly Should Establish the Policy Framework Before Granting Licensing Authority

The development of an effective crisis response system for children and families is an important public policy objective. Decisions about how that system should be structured deserve careful legislative deliberation.

Before granting DCYF explicit authority to license MRSS providers, the General Assembly should have the opportunity to review the regulatory framework currently being proposed and determine whether that framework reflects the policy priorities of the legislature.

Such review should include consideration of:

- the proposed regional structure of MRSS services;
- the role of Certified Community Behavioral Health Clinics within the crisis response system;
- the impact of the proposed regulations on community-based providers; and
- the overall governance structure of the statewide MRSS system.

These issues warrant full legislative scrutiny.



VII. Recommendation to the Committee

For the reasons described above, Tides Family Services respectfully urges the Committee to:

1. recognize that DCYF currently lacks clear statutory authority to license MRSS providers;
2. examine the rulemaking currently underway within DCYF and EOHHS;
3. ensure that the General Assembly—not administrative agencies—establishes the policy framework governing Rhode Island's MRSS system; and
4. consider delaying action on H7949 until the legislature has had the opportunity to fully review the proposed regulatory structure and its implications.

Conclusion

Tides Family Services remains committed to working collaboratively with state leaders to strengthen Rhode Island's behavioral health system and ensure that children and families have access to effective mobile crisis response services.

However, the development of that system must proceed in a manner that respects the role of the General Assembly in establishing public policy and ensures that administrative agencies act within the authority granted to them by statute.

For these reasons, we respectfully urge the Committee to carefully consider the legal and institutional issues raised by the current rulemaking process before advancing H7949.

Thank you for your consideration.

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