

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 943 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Holder offered the following:

4
5 **Amendment (with title amendment)**

6 Between lines 331 and 332, insert:

7 Section 5. Present subsections (7) through (26) of section
8 413.20, Florida Statutes, are renumbered as subsections (8)
9 through (27), respectively, and a new subsection (7) is added to
10 that section, to read:

11 413.20 Definitions.—As used in this part, the term:

12 (7) "Service provider" means a person or entity who
13 provides pursuant to this part employment services, supported
14 employment services, independent living services, self-
15 employment services, personal assistance services, vocational
16 evaluation or tutorial services, or rehabilitation technology
17 services, on a contractual or fee-for-service basis to
18 vulnerable persons as defined in s. 435.02.

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19 Section 6. Section 413.208, Florida Statutes, is amended
20 to read:

21 413.208 Service providers; quality assurance; and fitness
22 for responsibilities; background screening.-

23 (1) Service providers must register with the division. To
24 qualify for registration, the division must ~~of Vocational~~
25 ~~Rehabilitation shall certify providers of direct service and~~
26 ensure that the service provider maintains ~~they maintain~~ an
27 internal system of quality assurance, has ~~have~~ proven functional
28 systems, and is ~~are~~ subject to a due-diligence inquiry as to its
29 ~~their~~ fitness to undertake service responsibilities, ~~regardless~~
30 ~~of whether a contract for services is procured competitively or~~
31 ~~noncompetitively~~.

32 (2) (a) As a condition of registration under this section,
33 level 2 background screening pursuant to chapter 435 must be
34 conducted by the division on each of the following persons:

35 1. The administrator or a similarly titled person who is
36 responsible for the day-to-day operation of the service
37 provider.

38 2. The financial officer or similarly titled individual
39 who is responsible for the financial operation of the service
40 provider.

41 3. Any person employed by, or otherwise engaged on the
42 behalf of, a service provider who is expected to have direct,
43 face-to-face contact with a vulnerable person as defined in s.
44 435.02 while providing services to the person and have access to
45 the person's living areas, funds, personal property, or personal
46 identification information as defined in s. 817.568.

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47 4. A director of the service provider.

48 (b) Level 2 background screening pursuant to chapter 435
49 is not required for the following persons:

50 1. A licensed physician, nurse, or other professional who
51 is licensed by the Department of Health and who has undergone
52 fingerprinting and background screening as part of such
53 licensure if providing a service that is within the scope of her
54 or his licensed practice.

55 2. A relative of the vulnerable person receiving services.
56 For purposes of this section, the term "relative" means an
57 individual who is the father, mother, stepfather, stepmother,
58 son, daughter, brother, sister, grandmother, grandfather, great-
59 grandmother, great-grandfather, grandson, granddaughter, uncle,
60 aunt, first cousin, nephew, niece, husband, wife, father-in-law,
61 mother-in-law, son-in-law, daughter-in-law, brother-in-law,
62 sister-in-law, stepson, stepdaughter, stepbrother, stepsister,
63 half-brother, or half-sister of the vulnerable person.

64 (c) Service providers are responsible for initiating and
65 completing the background screening as a condition of
66 registration.

67 (d)1. Every 5 years following initial screening, each
68 person subject to background screening under this section must
69 submit to level 2 background rescreening as a condition of the
70 service provider retaining such registration.

71 2. Until the person's background screening results are
72 retained in the clearinghouse created under s. 435.12, the
73 division may accept as satisfying the requirements of this
74 section proof of compliance with level 2 screening standards

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75 submitted within the previous 5 years to meet any provider or
76 professional licensure requirements of the Agency for Health
77 Care Administration, the Department of Health, the Department of
78 Elderly Affairs, the Agency for Persons with Disabilities, or
79 the Department of Children and Family Services, provided:

80 a. The screening standards and disqualifying offenses for
81 the prior screening are equivalent to those specified in s.
82 435.04 and this section;

83 b. The person subject to screening has not had a break in
84 service from a position that requires level 2 screening for more
85 than 90 days; and

86 c. Such proof is accompanied, under penalty of perjury, by
87 an affidavit of compliance with the provisions of chapter 435
88 and this section.

89 (e) In addition to the disqualifying offenses listed in s.
90 435.04, all persons subject to undergo background screening
91 pursuant to this section must not have an arrest awaiting final
92 disposition for, must not have been found guilty of, regardless
93 of adjudication, or entered a plea of nolo contendere or guilty
94 to, and must not have been adjudicated delinquent, and the
95 record has not been expunged for, any offense prohibited under
96 any of the following provisions or similar law of another
97 jurisdiction:

98 1. Section 409.920, relating to Medicaid provider fraud.

99 2. Section 409.9201, relating to Medicaid fraud.

100 3. Section 741.28, relating to domestic violence.

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101 4. Section 817.034, relating to fraudulent acts through
102 mail, wire, radio, electromagnetic, photoelectronic, or
103 photooptical systems.

104 5. Section 817.234, relating to false and fraudulent
105 insurance claims.

106 6. Section 817.505, relating to patient brokering.

107 7. Section 817.568, relating to criminal use of personal
108 identification information.

109 8. Section 817.60, relating to obtaining a credit card
110 through fraudulent means.

111 9. Section 817.61, relating to fraudulent use of credit
112 cards, if the offense was a felony.

113 10. Section 831.01, relating to forgery.

114 11. Section 831.02, relating to uttering forged
115 instruments.

116 12. Section 831.07, relating to forging bank bills,
117 checks, drafts, or promissory notes.

118 13. Section 831.09, relating to uttering forged bank
119 bills, checks, drafts, or promissory notes.

120 14. Section 831.31, relating to the sale, manufacture,
121 delivery, or possession with the intent to sell, manufacture, or
122 deliver any counterfeit controlled substance, if the offense was
123 a felony.

124 (f) The division may grant an exemption from
125 disqualification from this section only as provided in s.
126 435.07.

127 (3) The cost of the state and national criminal history
128 records checks required by level 2 screening and their retention

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129 shall be borne by the service provider or the person being
130 screened.

131 (4) (a) The division shall deny, suspend, terminate, or
132 revoke a registration, rate agreement, purchase order, referral,
133 contract, or other agreement, or pursue other remedies in
134 addition to or in lieu of denial, suspension, termination, or
135 revocation, for failure to comply with this section.

136 (b) If the division has reasonable cause to believe that
137 grounds for denial or termination of registration exist, it
138 shall provide written notification to the person affected,
139 identifying the specific record that indicates noncompliance
140 with the standards in this section.

141 (c) Refusal on the part of a provider to remove from
142 contact with any vulnerable person a person who is employed by,
143 or otherwise engaged on behalf of, the provider and who is found
144 to be not in compliance with the standards of this section shall
145 result in revocation of the service provider's registration and
146 contract.

147 Section 7. The background screening requirements of
148 section 6 of this act do not apply to existing registrants with
149 the Division of Vocational Rehabilitation in effect before
150 October 1, 2012. Such requirements apply to all registrants with
151 the division which are renewed or entered into on or after
152 October 1, 2012.

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T I T L E A M E N D M E N T

Remove line 21 and insert:

directed care program; amending s. 413.20, F.S., relating to
general vocational rehabilitation programs; providing a
definition; amending s. 413.208, F.S.; requiring registration of
service providers; requiring background screening and
rescreening of certain persons having contact with vulnerable
persons; providing exemptions from background screening;
providing disqualifying offenses; providing that the cost of
screening shall be borne by the provider or the person being
screened; providing conditions for the denial of registration;
providing for notice of denial or termination; requiring
providers to remove persons who have not successfully passed
screening; providing for applicability; amending s. 430.0402,
F.S.;