

By the Committee on Children, Families, and Elder Affairs; and
Senator Clemens

586-01757-14

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1 A bill to be entitled
2 An act relating to substance abuse services; amending
3 s. 397.305, F.S.; providing legislative intent with
4 regard to sober house transitional living homes;
5 amending s. 397.311, F.S.; defining terms; creating s.
6 397.487, F.S.; prohibiting a sober house transitional
7 living home from operating in this state without a
8 valid certificate of registration from the Department
9 of Children and Families; providing an exception;
10 requiring a sober house operator to annually apply for
11 a certificate of registration with the department;
12 requiring certain sober house transitional living
13 homes to apply for a certificate of registration by a
14 specified date; providing for nonapplicability;
15 requiring the department to adopt rules pertaining to
16 the application process for obtaining a certificate of
17 registration; requiring background screening of
18 certain personnel; requiring the department to suspend
19 and reinstate a certificate of registration of a sober
20 house transitional living home under certain
21 circumstances; providing a criminal penalty for
22 operating a sober house transitional living home
23 without a valid certificate of registration; providing
24 certain requirements in advertising a sober house
25 transitional living home; providing a criminal
26 penalty; authorizing the department to conduct
27 inspections; authorizing the department to deny,
28 suspend, or revoke the certificate of registration of
29 a sober house transitional home; providing eviction

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30 procedures; requiring the department to adopt rules;
31 amending ss. 212.055 and 440.102, F.S.; conforming
32 cross-references; providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Subsections (10) and (11) are added to section
37 397.305, Florida Statutes, to read:

38 397.305 Legislative findings, intent, and purpose.—

39 (10) It is recognized by the Legislature that a person
40 suffering from addiction has a higher success rate of achieving
41 long-lasting sobriety when given the opportunity to build a
42 stronger foundation by living in a supportive, sober environment
43 after completing treatment.

44 (11) It is the intent of the Legislature to protect persons
45 who live in a sober house transitional living home while they
46 undergo treatment as provided in s. 397.311(18) at a licensed
47 facility. These persons represent a vulnerable consumer
48 population in need of adequate housing, whom this state and its
49 subdivisions have a legitimate state interest in protecting.

50 Section 2. Subsections (30) through (39) of section
51 397.311, Florida Statutes, are amended to read:

52 397.311 Definitions.—As used in this chapter, except part
53 VIII, the term:

54 (30) "Recovery residence" means a democratically run, peer-
55 managed, and peer-supported dwelling for a resident who is
56 established in his or her recovery and who is a party to a
57 single lease agreement to occupy the dwelling which has a single
58 beginning date and a single termination date.

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59 (31) "Registrable component" includes a sober house
60 transitional living home that is a residential dwelling unit
61 that provides, offers, or advertises housing in an alcohol-free
62 and drug-free living environment to persons who need room and
63 board while receiving treatment services as provided in s.
64 397.311(18) at a licensed facility. This term includes the
65 community housing component of a day or night treatment facility
66 or a residential treatment facility that offers level 5
67 treatment programs, but the term does not include a recovery
68 residence.

69 (32) "Residential dwelling unit" means a single unit used
70 primarily for living and sleeping which provides complete
71 independent living facilities for one or more persons, including
72 permanent provisions for living, sleeping, eating, cooking, and
73 sanitation.

74 (33)~~(30)~~ "Screening" means the gathering of initial
75 information to be used in determining a person's need for
76 assessment, services, or referral.

77 (34)~~(31)~~ "Secure facility," except where the context
78 indicates a correctional system facility, means a provider that
79 has the authority to deter the premature departure of
80 involuntary individuals whose leaving constitutes a violation of
81 a court order or community-based supervision as provided by law.
82 The term "secure facility" includes addictions receiving
83 facilities and facilities authorized by local ordinance for the
84 treatment of habitual abusers.

85 (35)~~(32)~~ "Service component" or "component" means a
86 discrete operational entity within a service provider which is
87 subject to licensing as defined by rule. Service components

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88 include prevention, intervention, and clinical treatment as
89 defined ~~described~~ in subsection (18).

90 (36) ~~(33)~~ "Service provider" or "provider" means a public
91 agency, a private for-profit or not-for-profit agency, a person
92 who is a private practitioner, or a hospital licensed under this
93 chapter or exempt from licensure under this chapter.

94 (37) ~~(34)~~ "Service provider personnel" or "personnel"
95 includes all owners, directors, chief financial officers, staff,
96 and volunteers, including foster parents, of a service provider.

97 (38) "Sober house operator" means a person who operates a
98 sober house transitional living home.

99 (39) ~~(35)~~ "Stabilization" connotes short-term emergency
100 treatment and means:

101 (a) Alleviation of a crisis condition; or

102 (b) Prevention of further deterioration,

103
104 ~~and connotes short-term emergency treatment.~~

105 (40) ~~(36)~~ "Substance abuse" means the misuse or abuse of, or
106 dependence on alcohol, illicit drugs, or prescription
107 medications. As an individual progresses along this continuum of
108 misuse, abuse, and dependence, there is an increased need for
109 substance abuse intervention and treatment to help abate the
110 problem.

111 (41) ~~(37)~~ "Substate entity" means a departmental office
112 designated to serve a geographical area specified by the
113 department.

114 (42) ~~(38)~~ "System of care" means a coordinated continuum of
115 community-based services and supports that are organized to meet
116 the challenges and needs of individuals who are at risk of

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117 developing substance abuse problems or individuals who have
118 substance abuse problems.

119 ~~(43)(39)~~ "Treatment plan" means an immediate and a long-
120 range plan based upon an individual's assessed needs and used to
121 address and monitor an individual's recovery from substance
122 abuse.

123 Section 3. Section 397.487, Florida Statutes, is created to
124 read:

125 397.487 Sober house transitional living homes.-

126 (1) APPLICATION.-

127 (a) A sober house transitional living home may not operate
128 in this state without a valid certificate of registration from
129 the department. However, a sober house transitional living home
130 that is licensed by the department as a residential treatment
131 facility that offers level 5 treatment programs or a sober house
132 transitional living home that is intended to serve as and has a
133 license for the community housing component of a day or night
134 treatment facility is not required to obtain additional
135 licensure or registration for the housing component of the
136 license.

137 (b) A sober house operator shall annually apply to the
138 department for a certificate of registration to operate a sober
139 house transitional living home by submitting the following:

140 1. The name and physical address of the sober house
141 transitional living home.

142 2. The name of the sober house operator.

143 3. The number of individuals served at the sober house
144 transitional living home.

145 4. Proof of screening and background checks as required

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146 under chapter 435.

147 5. Written eviction procedures in accordance with
148 subsection (7).

149 6. Proof of satisfactory fire, safety, and health
150 inspections and compliance with local zoning ordinances.

151 7. A registration fee, not to exceed \$200.

152 (c) A sober house transitional living home in existence on
153 July 1, 2014, shall apply for a certificate of registration by
154 September 1, 2014. This paragraph does not apply to a sober
155 house transitional living home in existence on July 1, 2014,
156 which has a license for the community housing component of a day
157 or night treatment facility or is licensed as a residential
158 treatment facility that offers level 5 treatment programs.

159 (d) The department shall adopt rules pertaining to the
160 application process for obtaining a certificate of registration.

161 (2) BACKGROUND SCREENING.—

162 (a) The owner, director, manager, operator, and chief
163 financial officer of a sober house transitional living home are
164 subject to level 2 background screening as provided in s.
165 435.04.

166 (b) The department may not grant a certificate of
167 registration to a sober house transitional living home that
168 fails to provide proof that background screening information has
169 been submitted in accordance with chapter 435.

170 (c) If a background screening reveals that an individual
171 specified in paragraph (a) has been arrested for and is awaiting
172 final disposition of; has been found guilty of, regardless of
173 adjudication, or has entered a plea of nolo contendere or guilty
174 to; or has been adjudicated delinquent and the record has not

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175 been sealed or expunged for, an offense prohibited under the
176 level 2 screening standards established in s. 435.04, the
177 department may not grant a certificate of registration to the
178 applicant's sober house transitional living home unless an
179 exemption from disqualification has been granted by the
180 department pursuant to chapter 435.

181 (d) The department shall immediately suspend the
182 certificate of registration of a sober house transitional living
183 home if an individual specified in paragraph (a), while acting
184 in his or her professional capacity, is arrested for and is
185 awaiting final disposition of; is found guilty of, regardless of
186 adjudication, or enters a plea of nolo contendere or guilty to;
187 or is adjudicated delinquent and the record has not been sealed
188 or expunged for, an offense prohibited under the level 2
189 screening standards established in s. 435.04. The department
190 shall reinstate the certificate of registration after such
191 individual resigns or is removed from his or her position at the
192 sober house transitional living home and replaced by another
193 qualified individual who passes the level 2 background screening
194 as provided in s. 435.04.

195 (3) PENALTIES.—A person or agency that operates a
196 residential dwelling unit as a sober house transitional living
197 home without a valid certificate of registration in accordance
198 with this section commits a misdemeanor of the first degree,
199 punishable as provided in s. 775.082 or s. 775.083.

200 (4) ADVERTISING.—A person, as defined in s. 1.01, who owns
201 or operates a sober house transitional living home must include
202 the home's state registration number within an advertisement of
203 the sober house transitional living home. A person who violates

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204 this subsection commits a misdemeanor of the first degree,
205 punishable as provided in s. 775.082 or s. 775.083.

206 (5) INSPECTIONS.—

207 (a) An authorized agent of the department may enter and
208 inspect at any time a sober house transitional living home that
209 has a certificate of registration from the department to
210 determine whether it is in compliance with s. 397.411 and rules
211 65D-30.004 and 65D-30.0081, Florida Administrative Code.

212 (b) An authorized agent of the department may, with the
213 permission of the person in charge of the premises or pursuant
214 to a warrant, enter and inspect a residential dwelling unit that
215 the agent reasonably suspects to be operating as a sober house
216 transitional living home in violation of this section.

217 (c) Notwithstanding the confidentiality provisions of this
218 chapter, a designated and authorized agent of the department may
219 access the records of the individuals served by a sober house
220 transitional living home solely for purposes of certification,
221 monitoring, and investigation. The department may interview
222 these individuals as specified by rule.

223 (d) Before the department grants or denies a certificate of
224 registration, an authorized agent of the department may enter
225 and inspect at any time the premises of an applicant sober house
226 transitional living home.

227 (e) The department shall maintain certificates of
228 registration and reports of inspections of sober house
229 transitional living homes as public records that are available
230 to any person upon request and upon payment of a reasonable
231 charge for copying as provided in s. 119.07.

232 (6) DENIAL; SUSPENSION; AND REVOCATION.—

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233 (a) If the department determines that an applicant or a
234 sober house transitional living home is not in compliance with
235 statutory and regulatory requirements, the department may deny,
236 suspend, revoke, or impose reasonable restrictions or penalties
237 on the certificate of registration or any portion of the
238 certificate. In such case, the department may:

239 1. Impose an administrative penalty of up to \$500 per day
240 against a sober house transitional living home that operates in
241 violation of statutory or regulatory requirements.

242 2. Suspend or revoke a sober house transitional living
243 home's certificate of registration if, after notice, the
244 department determines that the home has failed to correct a
245 substantial or chronic violation of a statutory or regulatory
246 requirement which impacts the safety of the individuals served
247 at the home.

248 (b) If a sober house transitional living home's certificate
249 of registration is revoked, the home is barred from submitting
250 an application for a certificate of registration to the
251 department for a period of 1 year after the revocation.

252 (c) Proceedings for the denial, suspension, or revocation
253 of a sober house transitional living home's certificate of
254 registration must be conducted in accordance with chapter 120.

255 (d) The department may maintain an action in court to
256 enjoin the operation of an uncertified sober house transitional
257 living home that violates this section.

258 (7) EVICTIONS.—In order to avoid increased homelessness and
259 crime and to ensure that the due process rights of a tenant are
260 not violated, a sober house transitional living home that is not
261 subject to chapter 83 must provide 48 hours' advance, written

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262 notice of eviction to a tenant or immediate shelter to that
263 tenant for at least 48 hours after eviction at an alternative
264 temporary dwelling unit. As used in this subsection, the term
265 "tenant" means an individual entitled to occupy or reside at a
266 sober house transitional living home in accordance with a
267 written agreement.

268 (8) The department shall adopt rules to administer this
269 section.

270 Section 4. Paragraph (e) of subsection (5) of section
271 212.055, Florida Statutes, is amended to read:

272 212.055 Discretionary sales surtaxes; legislative intent;
273 authorization and use of proceeds.—It is the legislative intent
274 that any authorization for imposition of a discretionary sales
275 surtax shall be published in the Florida Statutes as a
276 subsection of this section, irrespective of the duration of the
277 levy. Each enactment shall specify the types of counties
278 authorized to levy; the rate or rates which may be imposed; the
279 maximum length of time the surtax may be imposed, if any; the
280 procedure which must be followed to secure voter approval, if
281 required; the purpose for which the proceeds may be expended;
282 and such other requirements as the Legislature may provide.
283 Taxable transactions and administrative procedures shall be as
284 provided in s. 212.054.

285 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
286 s. 125.011(1) may levy the surtax authorized in this subsection
287 pursuant to an ordinance either approved by extraordinary vote
288 of the county commission or conditioned to take effect only upon
289 approval by a majority vote of the electors of the county voting
290 in a referendum. In a county as defined in s. 125.011(1), for

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291 the purposes of this subsection, "county public general
292 hospital" means a general hospital as defined in s. 395.002
293 which is owned, operated, maintained, or governed by the county
294 or its agency, authority, or public health trust.

295 (e) A governing board, agency, or authority shall be
296 chartered by the county commission upon this act becoming law.
297 The governing board, agency, or authority shall adopt and
298 implement a health care plan for indigent health care services.
299 The governing board, agency, or authority shall consist of no
300 more than seven and no fewer than five members appointed by the
301 county commission. The members of the governing board, agency,
302 or authority shall be at least 18 years of age and residents of
303 the county. No member may be employed by or affiliated with a
304 health care provider or the public health trust, agency, or
305 authority responsible for the county public general hospital.
306 The following community organizations shall each appoint a
307 representative to a nominating committee: the South Florida
308 Hospital and Healthcare Association, the Miami-Dade County
309 Public Health Trust, the Dade County Medical Association, the
310 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
311 County. This committee shall nominate between 10 and 14 county
312 citizens for the governing board, agency, or authority. The
313 slate shall be presented to the county commission and the county
314 commission shall confirm the top five to seven nominees,
315 depending on the size of the governing board. Until such time as
316 the governing board, agency, or authority is created, the funds
317 provided for in subparagraph (d)2. shall be placed in a
318 restricted account set aside from other county funds and not
319 disbursed by the county for any other purpose.

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320 1. The plan shall divide the county into a minimum of four
321 and maximum of six service areas, with no more than one
322 participant hospital per service area. The county public general
323 hospital shall be designated as the provider for one of the
324 service areas. Services shall be provided through participants'
325 primary acute care facilities.

326 2. The plan and subsequent amendments to it shall fund a
327 defined range of health care services for both indigent persons
328 and the medically poor, including primary care, preventive care,
329 hospital emergency room care, and hospital care necessary to
330 stabilize the patient. For the purposes of this section,
331 "stabilization" means stabilization as defined in s. 397.311 ~~s.~~
332 ~~397.311(35)~~. Where consistent with these objectives, the plan
333 may include services rendered by physicians, clinics, community
334 hospitals, and alternative delivery sites, as well as at least
335 one regional referral hospital per service area. The plan shall
336 provide that agreements negotiated between the governing board,
337 agency, or authority and providers shall recognize hospitals
338 that render a disproportionate share of indigent care, provide
339 other incentives to promote the delivery of charity care to draw
340 down federal funds where appropriate, and require cost
341 containment, including, but not limited to, case management.
342 From the funds specified in subparagraphs (d)1. and 2. for
343 indigent health care services, service providers shall receive
344 reimbursement at a Medicaid rate to be determined by the
345 governing board, agency, or authority created pursuant to this
346 paragraph for the initial emergency room visit, and a per-member
347 per-month fee or capitation for those members enrolled in their
348 service area, as compensation for the services rendered

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349 following the initial emergency visit. Except for provisions of
350 emergency services, upon determination of eligibility,
351 enrollment shall be deemed to have occurred at the time services
352 were rendered. The provisions for specific reimbursement of
353 emergency services shall be repealed on July 1, 2001, unless
354 otherwise reenacted by the Legislature. The capitation amount or
355 rate shall be determined prior to program implementation by an
356 independent actuarial consultant. In no event shall such
357 reimbursement rates exceed the Medicaid rate. The plan must also
358 provide that any hospitals owned and operated by government
359 entities on or after the effective date of this act must, as a
360 condition of receiving funds under this subsection, afford
361 public access equal to that provided under s. 286.011 as to any
362 meeting of the governing board, agency, or authority the subject
363 of which is budgeting resources for the retention of charity
364 care, as that term is defined in the rules of the Agency for
365 Health Care Administration. The plan shall also include
366 innovative health care programs that provide cost-effective
367 alternatives to traditional methods of service and delivery
368 funding.

369 3. The plan's benefits shall be made available to all
370 county residents currently eligible to receive health care
371 services as indigents or medically poor as defined in paragraph
372 (4) (d).

373 4. Eligible residents who participate in the health care
374 plan shall receive coverage for a period of 12 months or the
375 period extending from the time of enrollment to the end of the
376 current fiscal year, per enrollment period, whichever is less.

377 5. At the end of each fiscal year, the governing board,

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378 agency, or authority shall prepare an audit that reviews the
379 budget of the plan, delivery of services, and quality of
380 services, and makes recommendations to increase the plan's
381 efficiency. The audit shall take into account participant
382 hospital satisfaction with the plan and assess the amount of
383 poststabilization patient transfers requested, and accepted or
384 denied, by the county public general hospital.

385 Section 5. Paragraphs (d) and (g) of subsection (1) of
386 section 440.102, Florida Statutes, are amended to read:

387 440.102 Drug-free workplace program requirements.—The
388 following provisions apply to a drug-free workplace program
389 implemented pursuant to law or to rules adopted by the Agency
390 for Health Care Administration:

391 (1) DEFINITIONS.—Except where the context otherwise
392 requires, as used in this act:

393 (d) "Drug rehabilitation program" means a service provider,
394 as defined in s. 397.311, which established pursuant to s.
395 397.311(33), that provides confidential, timely, and expert
396 identification, assessment, and resolution of employee drug
397 abuse.

398 (g) "Employee assistance program" means an established
399 program capable of providing expert assessment of employee
400 personal concerns; confidential and timely identification
401 services with regard to employee drug abuse; referrals of
402 employees for appropriate diagnosis, treatment, and assistance;
403 and followup services for employees who participate in the
404 program or require monitoring after returning to work. If, in
405 addition to the above activities, an employee assistance program
406 provides diagnostic and treatment services, these services shall

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407 in all cases be provided by service providers as defined in s.
408 397.311 ~~pursuant to s. 397.311(33).~~

409 Section 6. This act shall take effect July 1, 2014.