

By Senator Rossin

35-964B-98

1 A bill to be entitled
 2 An act relating to rulemaking authority for the
 3 Department of Children and Family Services
 4 (RAB); amending s. 393.066, F.S.; providing for
 5 compliance with federal laws or regulations in
 6 rulemaking; amending s. 393.17, F.S.; providing
 7 for minimum standards in rules; amending s.
 8 394.4781, F.S.; providing rulemaking authority;
 9 amending s. 394.78, F.S.; providing for the
 10 inclusion of financial requirements in rules;
 11 amending s. 394.879, F.S.; providing for
 12 inclusion of construction and design
 13 requirements in rules; amending s. 397.427,
 14 F.S.; providing for inclusion of federal
 15 requirements in rules; amending s. 409.212,
 16 F.S.; providing rulemaking authority; amending
 17 s. 409.285, F.S.; providing rulemaking
 18 authority; providing an effective date.

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 20 Be It Enacted by the Legislature of the State of Florida:

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 22 Section 1. Subsection (9) of section 393.066, Florida
 23 Statutes, is amended to read:

24 393.066 Community services and treatment for persons
 25 who are developmentally disabled.--

26 (9) The department may adopt rules to ensure
 27 compliance with federal laws or regulations that apply to
 28 services provided pursuant to this section ~~that caretakers in~~
 29 ~~day facilities comply with the requirements for good moral~~
 30 ~~character.~~

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1 Section 2. Section 393.17, Florida Statutes, is
2 amended to read:

3 393.17 Behavioral programs; certification of behavior
4 analysts; fees.--The department shall by rule implement a
5 certification program to ensure that qualified persons oversee
6 the design and implementation of behavioral programs for
7 persons who are developmentally disabled. Certification and
8 recertification minimum standards must comply with
9 departmental rules and must include, for initial
10 certification,~~shall be determined by~~ examination of
11 competencies in applying behavior analysis with persons who
12 are developmentally disabled within established competency
13 clusters. These competency clusters shall include, but not be
14 limited to, behavioral assessments, observation and recording,
15 behavioral program development and monitoring, and other areas
16 as determined by professional practitioners of behavior
17 analysis. Fees shall be charged for certification not to
18 exceed the cost of development and administration of the
19 examination and periodic renewal of certification. The
20 department shall establish by rule the procedures for
21 certification and certification renewal.

22 Section 3. Subsection (4) is added to section
23 394.4781, Florida Statutes, to read:

24 394.4781 Residential care for psychotic and
25 emotionally disturbed children.--

26 (4) RULE ADOPTION.--The department may adopt rules to
27 carry out this section, including rules concerning review and
28 approval of applications for placement, cost-sharing, and
29 client eligibility for placement, and rules to ensure that
30 facilities from which the department purchases or contracts
31 for services under this section provide:

1 (a) Minimum standards for client care and treatment
2 practices, including ensuring that sufficient numbers and
3 types of qualified personnel are on duty and available at all
4 times to provide necessary and adequate client safety, care,
5 and security.

6 (b) Minimum standards for client intake and admission,
7 eligibility criteria, discharge planning, assessment,
8 treatment planning, continuity of care, treatment modalities,
9 service array, medical services, physical health services,
10 client rights, maintenance of client records, and management
11 of the treatment environment, including standards for the use
12 of seclusion, restraints, and time-out.

13 (c) Minimum standards for facility operation and
14 administration, fiscal accountability, personnel policies and
15 procedures, and staff education, qualifications, experience,
16 and training.

17 (d) Minimum standards for adequate infection control,
18 housekeeping sanitation, disaster planning, fire safety,
19 construction standards, and emergency services.

20 (e) Minimum standards for the establishment,
21 organization, and operation of the licensed facility in
22 accordance with program standards of the department.

23 (f) Licensing requirements.

24 Section 4. Paragraph (a) of subsection (1) of section
25 394.78, Florida Statutes, is amended to read:

26 394.78 Operation and administration; personnel
27 standards; procedures for audit and monitoring of service
28 providers; resolution of disputes.--

29 (1)(a) The Department of Children and Family Health
30 ~~and Rehabilitative~~ Services shall administer this part and
31 shall adopt rules necessary for its administration. In

1 addition to other rulemaking authority, the department may
2 adopt financial rules relating to conflicts of interest;
3 related party transactions; full disclosure of revenue funds
4 and expenses; charts of accounts for state reporting;
5 auditing; penalties for nonperformance; benefit packages;
6 performance outcomes, including client satisfaction and
7 functional assessments; nonpayment and suspended payments for
8 failure to timely submit required client service reports; and
9 client financial eligibility requirements.

10 Section 5. Paragraph (f) is added to subsection (1) of
11 section 394.879, Florida Statutes, to read:

12 394.879 Rules; enforcement.--

13 (1) The department shall adopt reasonable rules to
14 implement this chapter, including, at a minimum, rules
15 providing standards to ensure that:

16 (f) Facility construction and design requirements are
17 consistent with the patients' conditions and that the
18 operation and purposes of these facilities assure individuals'
19 health, safety, and welfare.

20 Section 6. Paragraph (c) is added to subsection (3) of
21 section 397.427, Florida Statutes, to read:

22 397.427 Medication treatment service providers;
23 rehabilitation program; needs assessment and provision of
24 services; persons authorized to issue takeout methadone;
25 unlawful operation; penalty.--

26 (3) The department shall adopt rules necessary to
27 administer this section, including, but not limited to, rules
28 prescribing criteria and procedures for:

29 (c) Administering any federally required rules,
30 regulations, or procedures.

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1 Section 7. Subsection (5) is added to section 409.212,
2 Florida Statutes, to read:

3 409.212 Optional supplementation.--

4 (5) The department may adopt rules to administer this
5 section relating to eligibility requirements for optional
6 state supplementation.

7 Section 8. Subsection (3) is added to section 409.285,
8 Florida Statutes, to read:

9 409.285 Opportunity for hearing and appeal.--

10 (3) The department may adopt rules to administer this
11 section. Rules for the Temporary Assistance for Needy Families
12 block grant programs must be similar to the federal
13 requirements for Medicaid programs.

14 Section 9. This act shall take effect upon becoming a
15 law.

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18 SENATE SUMMARY

19 Provides rulemaking authority in several areas for the
20 Department of Children and Family Services. Requires that
21 federal requirements or standards be included in certain
22 rules. (See bill for details.)
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