

By Senator Lynn

7-378-05

1                                   A bill to be entitled  
2           An act relating to substance abuse treatment;  
3           amending s. 397.311, F.S.; including intensive  
4           inpatient treatment within the service  
5           components provided by a licensed service  
6           provider; defining the term "medical  
7           monitoring"; amending s. 212.055, F.S.,  
8           relating to the county public hospital surtax;  
9           conforming a cross-reference; reenacting ss.  
10          397.405(8) and 397.407(1), F.S., relating to  
11          treatment providers, to incorporate the  
12          amendment to s. 397.311, F.S., in references  
13          thereto; amending ss. 397.416 and 440.102,  
14          F.S., relating to treatment services and the  
15          drug-free workplace program; conforming  
16          cross-references; providing an effective date.

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

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20           Section 1. Subsection (18) of section 397.311, Florida  
21   Statutes, is amended, present subsections (19) through (29) of  
22   that section are redesignated as subsections (20) through  
23   (30), respectively, and a new subsection (19) is added to that  
24   section, to read:

25           397.311 Definitions.--As used in this chapter, except  
26   part VIII:

27           (18) "Licensed service provider" means a public agency  
28   under this chapter, a private for-profit or not-for-profit  
29   agency under this chapter, a physician or any other private  
30   practitioner licensed under this chapter, or a hospital that  
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1 offers substance abuse impairment services through one or more  
2 of the following licensable service components:

3 (a) Addictions receiving facility, which is a  
4 community-based facility designated by the department to  
5 receive, screen, and assess clients found to be substance  
6 abuse impaired, in need of emergency treatment for substance  
7 abuse impairment, or impaired by substance abuse to such an  
8 extent as to meet the criteria for involuntary admission in s.  
9 397.675, and to provide detoxification and stabilization. An  
10 addictions receiving facility must be state-owned,  
11 state-operated, or state-contracted, and licensed pursuant to  
12 rules adopted by the department's Substance Abuse Program  
13 Office which include specific authorization for the provision  
14 of levels of care and a requirement of separate accommodations  
15 for adults and minors. Addictions receiving facilities are  
16 designated as secure facilities to provide an intensive level  
17 of care and must have sufficient staff and the authority to  
18 provide environmental security to handle aggressive and  
19 difficult-to-manage behavior and deter elopement.

20 (b) Detoxification, which uses medical and  
21 psychological procedures and a supportive counseling regimen  
22 to assist clients in managing toxicity and withdrawing and  
23 stabilizing from the physiological and psychological effects  
24 of substance abuse impairment.

25 (c) Intensive inpatient treatment, which includes a  
26 planned regimen of professionally directed evaluation,  
27 observation, medical monitoring, and clinical protocols  
28 provided 24 hours per day, 7 days per week in a highly  
29 structured, live-in environment.

1           ~~(d)~~(e) Residential treatment, which provides a  
2 structured, live-in environment within a nonhospital setting  
3 on a 24-hours-a-day, 7-days-a-week basis, and which includes:

4           1. Facilities that provide room and board and  
5 treatment and rehabilitation within the primary residential  
6 facility; and

7           2. Facilities that are used for room and board only  
8 and in which treatment and rehabilitation activities are  
9 provided on a mandatory basis at locations other than the  
10 primary residential facility. In this case, facilities used  
11 for room and board and for treatment and rehabilitation are  
12 operated under the auspices of the same provider, and  
13 licensing and regulatory requirements would apply to both the  
14 residential facility and all other facilities in which  
15 treatment and rehabilitation activities occur.

16           ~~(e)~~(d) Day and night treatment, which provides a  
17 nonresidential environment with a structured schedule of  
18 treatment and rehabilitation services.

19           ~~(f)~~(e) Outpatient treatment, which provides  
20 individual, group, or family counseling for clients by  
21 appointment during scheduled operating hours, with an emphasis  
22 on assessment and treatment.

23           ~~(g)~~(f) Medication and methadone maintenance treatment  
24 that uses methadone or other medication as authorized by state  
25 and federal law, in conjunction with medical, rehabilitative,  
26 and counseling services in the treatment of clients who are  
27 dependent upon opioid drugs.

28           ~~(h)~~(g) Prevention, which is a process involving  
29 strategies aimed at the individual, the environment, or the  
30 substance, which strategies preclude, forestall, or impede the  
31 development of substance abuse problems and promote

1 responsible personal and social growth of individuals and  
2 families toward full human potential.

3 ~~(i)(h)~~ Intervention, which consists of structured  
4 services targeted toward individuals or groups at risk and  
5 focused on reducing those factors associated with the onset or  
6 the early stages of substance abuse, and related problems.

7 (19) "Medical monitoring" means oversight and  
8 treatment, 24 hours per day by medical personnel who are  
9 licensed under chapter 458, chapter 459, or chapter 464, of  
10 clients whose subacute biomedical, emotional, psychosocial,  
11 behavioral, or cognitive problems are so severe that the  
12 clients require intensive inpatient treatment by an  
13 interdisciplinary team.

14 Section 2. Paragraph (e) of subsection (5) of section  
15 212.055, Florida Statutes, is amended to read:

16 212.055 Discretionary sales surtaxes; legislative  
17 intent; authorization and use of proceeds.--It is the  
18 legislative intent that any authorization for imposition of a  
19 discretionary sales surtax shall be published in the Florida  
20 Statutes as a subsection of this section, irrespective of the  
21 duration of the levy. Each enactment shall specify the types  
22 of counties authorized to levy; the rate or rates which may be  
23 imposed; the maximum length of time the surtax may be imposed,  
24 if any; the procedure which must be followed to secure voter  
25 approval, if required; the purpose for which the proceeds may  
26 be expended; and such other requirements as the Legislature  
27 may provide. Taxable transactions and administrative  
28 procedures shall be as provided in s. 212.054.

29 (5) COUNTY PUBLIC HOSPITAL SURTAX.--Any county as  
30 defined in s. 125.011(1) may levy the surtax authorized in  
31 this subsection pursuant to an ordinance either approved by

1 extraordinary vote of the county commission or conditioned to  
2 take effect only upon approval by a majority vote of the  
3 electors of the county voting in a referendum. In a county as  
4 defined in s. 125.011(1), for the purposes of this subsection,  
5 "county public general hospital" means a general hospital as  
6 defined in s. 395.002 which is owned, operated, maintained, or  
7 governed by the county or its agency, authority, or public  
8 health trust.

9 (e) A governing board, agency, or authority shall be  
10 chartered by the county commission upon this act becoming law.  
11 The governing board, agency, or authority shall adopt and  
12 implement a health care plan for indigent health care  
13 services. The governing board, agency, or authority shall  
14 consist of no more than seven and no fewer than five members  
15 appointed by the county commission. The members of the  
16 governing board, agency, or authority shall be at least 18  
17 years of age and residents of the county. No member may be  
18 employed by or affiliated with a health care provider or the  
19 public health trust, agency, or authority responsible for the  
20 county public general hospital. The following community  
21 organizations shall each appoint a representative to a  
22 nominating committee: the South Florida Hospital and  
23 Healthcare Association, the Miami-Dade County Public Health  
24 Trust, the Dade County Medical Association, the Miami-Dade  
25 County Homeless Trust, and the Mayor of Miami-Dade County.  
26 This committee shall nominate between 10 and 14 county  
27 citizens for the governing board, agency, or authority. The  
28 slate shall be presented to the county commission and the  
29 county commission shall confirm the top five to seven  
30 nominees, depending on the size of the governing board. Until  
31 such time as the governing board, agency, or authority is

1 created, the funds provided for in subparagraph (d)2. shall be  
2 placed in a restricted account set aside from other county  
3 funds and not disbursed by the county for any other purpose.

4 1. The plan shall divide the county into a minimum of  
5 four and maximum of six service areas, with no more than one  
6 participant hospital per service area. The county public  
7 general hospital shall be designated as the provider for one  
8 of the service areas. Services shall be provided through  
9 participants' primary acute care facilities.

10 2. The plan and subsequent amendments to it shall fund  
11 a defined range of health care services for both indigent  
12 persons and the medically poor, including primary care,  
13 preventive care, hospital emergency room care, and hospital  
14 care necessary to stabilize the patient. For the purposes of  
15 this section, "stabilization" means stabilization as defined  
16 in s. 397.311(30) ~~s. 397.311(29)~~. Where consistent with these  
17 objectives, the plan may include services rendered by  
18 physicians, clinics, community hospitals, and alternative  
19 delivery sites, as well as at least one regional referral  
20 hospital per service area. The plan shall provide that  
21 agreements negotiated between the governing board, agency, or  
22 authority and providers shall recognize hospitals that render  
23 a disproportionate share of indigent care, provide other  
24 incentives to promote the delivery of charity care to draw  
25 down federal funds where appropriate, and require cost  
26 containment, including, but not limited to, case management.  
27 From the funds specified in subparagraphs (d)1. and 2. for  
28 indigent health care services, service providers shall receive  
29 reimbursement at a Medicaid rate to be determined by the  
30 governing board, agency, or authority created pursuant to this  
31 paragraph for the initial emergency room visit, and a

1 | per-member per-month fee or capitation for those members  
2 | enrolled in their service area, as compensation for the  
3 | services rendered following the initial emergency visit.  
4 | Except for provisions of emergency services, upon  
5 | determination of eligibility, enrollment shall be deemed to  
6 | have occurred at the time services were rendered. The  
7 | provisions for specific reimbursement of emergency services  
8 | shall be repealed on July 1, 2001, unless otherwise reenacted  
9 | by the Legislature. The capitation amount or rate shall be  
10 | determined prior to program implementation by an independent  
11 | actuarial consultant. In no event shall such reimbursement  
12 | rates exceed the Medicaid rate. The plan must also provide  
13 | that any hospitals owned and operated by government entities  
14 | on or after the effective date of this act must, as a  
15 | condition of receiving funds under this subsection, afford  
16 | public access equal to that provided under s. 286.011 as to  
17 | any meeting of the governing board, agency, or authority the  
18 | subject of which is budgeting resources for the retention of  
19 | charity care, as that term is defined in the rules of the  
20 | Agency for Health Care Administration. The plan shall also  
21 | include innovative health care programs that provide  
22 | cost-effective alternatives to traditional methods of service  
23 | and delivery funding.

24 |         3. The plan's benefits shall be made available to all  
25 | county residents currently eligible to receive health care  
26 | services as indigents or medically poor as defined in  
27 | paragraph (4)(d).

28 |         4. Eligible residents who participate in the health  
29 | care plan shall receive coverage for a period of 12 months or  
30 | the period extending from the time of enrollment to the end of  
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1 the current fiscal year, per enrollment period, whichever is  
2 less.

3           5. At the end of each fiscal year, the governing  
4 board, agency, or authority shall prepare an audit that  
5 reviews the budget of the plan, delivery of services, and  
6 quality of services, and makes recommendations to increase the  
7 plan's efficiency. The audit shall take into account  
8 participant hospital satisfaction with the plan and assess the  
9 amount of poststabilization patient transfers requested, and  
10 accepted or denied, by the county public general hospital.

11           Section 3. For the purpose of incorporating the  
12 amendment made by this act to section 397.311, Florida  
13 Statutes, in a reference thereto, subsection (8) of section  
14 397.405, Florida Statutes, is reenacted to read:

15           397.405 Exemptions from licensure.--The following are  
16 exempt from the licensing provisions of this chapter:

17           (8) An established and legally cognizable church or  
18 nonprofit religious organization or denomination providing  
19 substance abuse services, including prevention services, which  
20 are exclusively religious, spiritual, or ecclesiastical in  
21 nature. A church or nonprofit religious organization or  
22 denomination providing any of the licensable service  
23 components itemized under s. 397.311(18) is not exempt for  
24 purposes of its provision of such licensable service  
25 components but retains its exemption with respect to all  
26 services which are exclusively religious, spiritual, or  
27 ecclesiastical in nature.

28           Section 4. For the purpose of incorporating the  
29 amendment made by this act to section 397.311, Florida  
30 Statutes, in a reference thereto, subsection (1) of section  
31 397.407, Florida Statutes, is reenacted to read:



1           397.407 Licensure fees.--

2           (1) The department shall establish licensure fees by  
3 rule. The rule must prescribe a fee range that is based, at  
4 least in part, on the number and complexity of programs listed  
5 in s. 397.311(18) which are operated by a licensee. The fee  
6 range must be implemented over a 5-year period. The fee  
7 schedule for licensure of service components must be increased  
8 annually in substantially equal increments so that, by July 1,  
9 1998, the fees from the licensure of service components are  
10 sufficient to cover at least 50 percent of the costs of  
11 regulating the service components. The department shall  
12 specify by rule a fee range and phase-in plan for privately  
13 funded licensed service providers and a fee range and phase-in  
14 plan for publicly funded licensed service providers. Fees for  
15 privately funded licensed service providers must exceed the  
16 fees for publicly funded licensed service providers. The  
17 first year phase-in licensure fees must be at least \$150 per  
18 initial license. The rule must provide for a reduction in  
19 licensure fees for licensed service providers who hold more  
20 than one license.

21           Section 5. Subsection (2) of section 397.416, Florida  
22 Statutes, is amended to read:

23           397.416 Substance abuse treatment services; ~~qualified~~  
24 professional.--

25           (2) Notwithstanding any other provision of law, a  
26 person who was certified through a certification process  
27 recognized by the former Department of Health and  
28 Rehabilitative Services before January 1, 1995, may perform  
29 the duties of a qualified professional with respect to  
30 substance abuse treatment services as defined in this chapter,  
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1 and need not meet the certification requirements contained in  
2 s. 397.311(25) ~~s. 397.311(24)~~.

3 Section 6. Paragraphs (d) and (g) of subsection (1) of  
4 section 440.102, Florida Statutes, are amended to read:

5 440.102 Drug-free workplace program requirements.--The  
6 following provisions apply to a drug-free workplace program  
7 implemented pursuant to law or to rules adopted by the Agency  
8 for Health Care Administration:

9 (1) DEFINITIONS.--Except where the context otherwise  
10 requires, as used in this act:

11 (d) "Drug rehabilitation program" means a service  
12 provider, established pursuant to s. 397.311(28) ~~s.~~  
13 ~~397.311(27)~~, that provides confidential, timely, and expert  
14 identification, assessment, and resolution of employee drug  
15 abuse.

16 (g) "Employee assistance program" means an established  
17 program capable of providing expert assessment of employee  
18 personal concerns; confidential and timely identification  
19 services with regard to employee drug abuse; referrals of  
20 employees for appropriate diagnosis, treatment, and  
21 assistance; and followup services for employees who  
22 participate in the program or require monitoring after  
23 returning to work. If, in addition to the above activities, an  
24 employee assistance program provides diagnostic and treatment  
25 services, these services shall in all cases be provided by  
26 service providers pursuant to s. 397.311(28) ~~s. 397.311(27)~~.

27 Section 7. This act shall take effect July 1, 2005.  
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SENATE SUMMARY

For purposes of laws governing substance abuse treatment, redefines the term "licensed service provider" to include the service components of intensive inpatient treatment and defines the term "medical monitoring."