

A bill to be entitled

An act relating to community behavioral health agencies; creating s. 394.9085, F.S.; providing that certain facilities or programs have liability limits in tort actions under certain circumstances; limiting net economic damages allowed per claim; requiring that damages be offset by collateral source payment in accordance with s. 768.76, F.S.; providing for claims bills to be filed with the Legislature; requiring that costs to defend actions be assumed by the provider or its insurer; specifying occasions upon which immunities enjoyed by the provider extend to the employee; requiring that providers obtain and maintain specified liability coverage; specifying that persons providing contractual services to the state are not considered agents or employees under ch. 440, F.S.; providing for an annual increase in the conditional limitations on damages; providing definitions; providing an effective date.

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

Section 1. Section 394.9085, Florida Statutes, is created to read:

394.9085 Behavioral provider liability.--

(1) In any tort action based on services provided for crisis stabilization brought against a detoxification program, an addictions receiving facility, or a designated public receiving facility, net economic damages shall be limited to \$1

29 million per liability claim, including, but not limited to, past
30 and future medical expenses, wage loss, and loss of earning
31 capacity, offset by any collateral source payment paid in
32 accordance with s. 768.76. In any tort action based on services
33 provided for crisis stabilization brought against any
34 detoxification program, an addictions receiving facility, or a
35 designated public receiving facility, noneconomic damages shall
36 be limited to \$200,000 per claim. Any claim may be settled up to
37 policy limits without further act of the Legislature. A claims
38 bill may be brought on behalf of a claimant pursuant to s.
39 768.28 for any amount exceeding the limits specified in this
40 subsection. Any costs in defending actions brought under this
41 section shall be assumed by the provider or its insurer.

42 (2) The liability of a detoxification program, an
43 addictions receiving facility, or any designated public
44 receiving facility shall be exclusive and in place of all other
45 liability of such provider. The same immunities from liability
46 enjoyed by such providers extend as well to each employee of the
47 provider when the employee is acting in furtherance of the
48 provider's responsibilities under its contract with the
49 department. Such immunities do not apply to a provider or
50 employee who acts in a culpably negligent manner or with willful
51 and wanton disregard or unprovoked physical aggression if such
52 acts result in injury or death.

53 (3) The eligible provider under this section must, as part
54 of its contract, obtain and maintain a minimum of \$1 million per
55 claim and \$3 million per incident in general liability coverage.

56 (4) This section does not designate a person who provides

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57 contracted services to the department as an employee or agent of
58 the state for purposes of chapter 440.

59 (5) The Legislature is cognizant of the increasing costs
60 of goods and services each year and recognizes that fixing a set
61 amount of compensation actually has the effect of a reduction in
62 compensation each year. Accordingly, the conditional limitations
63 on damages in this section shall be increased at the rate of 5
64 percent each year, prorated from July 1, 2006, to the date at
65 which damages subject to such limitations are awarded by final
66 judgment or settlement.

67 (6) For purposes of this section, the terms
68 "detoxification program," "addictions receiving facility," and
69 "receiving facility" have the same meanings as those provided in
70 ss. 397.311(18)(b), 397.311(18)(a), and 394.455(26),
71 respectively.

72 Section 2. This act shall take effect July 1, 2006.