

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

586-03458-09

20092612c1

1 A bill to be entitled
2 An act relating to substance abuse and mental health
3 services; amending s. 212.055, F.S.; conforming a
4 cross-reference; amending s. 394.67, F.S.; redefining
5 the term "residential treatment center for children
6 and adolescents"; amending s. 394.674, F.S.;
7 establishing priority populations of persons who are
8 eligible for services funded by the Department of
9 Children and Family Services; amending s. 394.9085,
10 F.S.; conforming a cross-reference; amending s.
11 397.301, F.S.; deleting an obsolete provision;
12 amending s. 397.305, F.S.; revising the legislative
13 intent, purpose, and findings; amending s. 397.311,
14 F.S.; revising definitions; amending s. 397.321, F.S.;
15 revising the duties of the Department of Children and
16 Family Services; deleting a provision that authorizes
17 the department to establish a pilot project to serve
18 certain persons who qualify to receive substance abuse
19 or mental health services in a specified district;
20 amending s. 397.331, F.S.; revising the term
21 "substance abuse programs and services" or "drug
22 control"; amending s. 397.401, F.S.; providing that it
23 is unlawful for an unlicensed agency to act as a
24 substance abuse service provider; amending s. 397.403,
25 F.S.; revising requirements for a license application;
26 amending s. 397.405, F.S.; providing that a crisis
27 stabilization unit is exempt from licensure;
28 conforming a cross-reference; authorizing the
29 department to adopt certain rules; providing that ch.

586-03458-09

20092612c1

30 397, F.S., does not limit the practice of an advanced
31 registered nurse practitioner who provides substance
32 abuse treatment under certain circumstances; amending
33 s. 397.406, F.S.; providing that substance abuse
34 programs operated directly or under contract by the
35 Department of Juvenile Justice are subject to
36 licensure and regulation; amending s. 397.407, F.S.;
37 conforming a cross-reference; revising the licensure
38 process; authorizing the Department of Children and
39 Family Services to issue probationary, regular, and
40 interim licenses; providing requirements for
41 probationary, regular, and interim licenses; repealing
42 s. 397.409, F.S., relating to probationary, regular,
43 and interim licenses; amending s. 397.411, F.S.;
44 requiring the department to notify certain applicable
45 agencies of any licensure inspections of service
46 providers; amending s. 397.415, F.S.; requiring that
47 fines collected as administrative penalties be
48 deposited in the Operations and Maintenance Trust Fund
49 of the department rather than the Substance Abuse
50 Impairment Provider Licensing Trust Fund; revising
51 requirements for suspending or revoking a license;
52 amending s. 397.416, F.S.; conforming a cross-
53 reference; amending s. 397.419, F.S.; renaming quality
54 assurance programs to "quality improvement programs";
55 conforming provisions to changes made by the act;
56 revising minimum guidelines for a service provider's
57 quality improvement program; providing additional
58 requirements for a quality improvement program;

586-03458-09

20092612c1

59 deleting a provision that requires a quality assurance
60 program to incorporate a peer review process; amending
61 s. 397.427, F.S.; specifying that medication treatment
62 service providers are providers of medication-assisted
63 treatment services for opiate addiction; conforming
64 provisions to changes made by the act; requiring the
65 department to determine the need for establishing
66 medication-assisted treatment services for other
67 substance-use disorders; requiring service providers
68 that provide medication-assisted treatment for other
69 substance-use disorders to provide counseling
70 services; requiring the department to adopt rules to
71 administer medication-assisted treatment services;
72 authorizing a registered nurse, an advanced registered
73 nurse practitioner, and a licensed practical nurse to
74 deliver medication, other than methadone, for the
75 purpose of medication-assisted treatment for opiate
76 addiction under certain conditions; requiring a
77 licensed service provider that provides medication-
78 assisted treatment to adopt written protocols;
79 providing requirements for the protocols; requiring a
80 licensed service provider that provides medication-
81 assisted treatment to maintain and have ready for
82 inspection medical records and protocols; amending s.
83 397.431, F.S.; conforming provisions to changes made
84 by the act; amending s. 397.451, F.S.; providing that
85 inmate substance abuse programs are exempt from level
86 2 background screenings; clarifying that certain
87 personnel employed in an inmate substance abuse

586-03458-09

20092612c1

88 program are exempt from fingerprinting and background
89 check requirements; amending ss. 397.471, 397.501,
90 397.581, 397.601, 397.6751, 397.6752, 397.6758,
91 397.6773, 397.6797, 397.6799, 397.6819, 397.6821,
92 397.6822, 397.697, 397.6971, 397.6975, 397.6977,
93 397.702, 397.706, 397.801, 397.821, 397.94, 397.95,
94 397.97, 397.99, F.S.; conforming provisions to changes
95 made by the act; amending s. 440.102, F.S.; conforming
96 a cross-reference; amending s. 766.101, F.S.;
97 redefining the term "medical review committee" to
98 include a committee to review mental health and
99 substance abuse treatment services provided by the
100 department; repealing s. 394.9081, F.S., relating to
101 target groups for substance abuse and mental health
102 services; providing an effective date.

103
104 Be It Enacted by the Legislature of the State of Florida:

105
106 Section 1. Paragraph (e) of subsection (5) of section
107 212.055, Florida Statutes, is amended to read:

108 212.055 Discretionary sales surtaxes; legislative intent;
109 authorization and use of proceeds.—It is the legislative intent
110 that any authorization for imposition of a discretionary sales
111 surtax shall be published in the Florida Statutes as a
112 subsection of this section, irrespective of the duration of the
113 levy. Each enactment shall specify the types of counties
114 authorized to levy; the rate or rates which may be imposed; the
115 maximum length of time the surtax may be imposed, if any; the
116 procedure which must be followed to secure voter approval, if

586-03458-09

20092612c1

117 required; the purpose for which the proceeds may be expended;
118 and such other requirements as the Legislature may provide.
119 Taxable transactions and administrative procedures shall be as
120 provided in s. 212.054.

121 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
122 s. 125.011(1) may levy the surtax authorized in this subsection
123 pursuant to an ordinance either approved by extraordinary vote
124 of the county commission or conditioned to take effect only upon
125 approval by a majority vote of the electors of the county voting
126 in a referendum. In a county as defined in s. 125.011(1), for
127 the purposes of this subsection, "county public general
128 hospital" means a general hospital as defined in s. 395.002
129 which is owned, operated, maintained, or governed by the county
130 or its agency, authority, or public health trust.

131 (e) A governing board, agency, or authority shall be
132 chartered by the county commission upon this act becoming law.
133 The governing board, agency, or authority shall adopt and
134 implement a health care plan for indigent health care services.
135 The governing board, agency, or authority shall consist of no
136 more than seven and no fewer than five members appointed by the
137 county commission. The members of the governing board, agency,
138 or authority shall be at least 18 years of age and residents of
139 the county. No member may be employed by or affiliated with a
140 health care provider or the public health trust, agency, or
141 authority responsible for the county public general hospital.
142 The following community organizations shall each appoint a
143 representative to a nominating committee: the South Florida
144 Hospital and Healthcare Association, the Miami-Dade County
145 Public Health Trust, the Dade County Medical Association, the

586-03458-09

20092612c1

146 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
147 County. This committee shall nominate between 10 and 14 county
148 citizens for the governing board, agency, or authority. The
149 slate shall be presented to the county commission and the county
150 commission shall confirm the top five to seven nominees,
151 depending on the size of the governing board. Until such time as
152 the governing board, agency, or authority is created, the funds
153 provided for in subparagraph (d)2. shall be placed in a
154 restricted account set aside from other county funds and not
155 disbursed by the county for any other purpose.

156 1. The plan shall divide the county into a minimum of four
157 and maximum of six service areas, with no more than one
158 participant hospital per service area. The county public general
159 hospital shall be designated as the provider for one of the
160 service areas. Services shall be provided through participants'
161 primary acute care facilities.

162 2. The plan and subsequent amendments to it shall fund a
163 defined range of health care services for both indigent persons
164 and the medically poor, including primary care, preventive care,
165 hospital emergency room care, and hospital care necessary to
166 stabilize the patient. For the purposes of this section,
167 "stabilization" means stabilization as defined in s. 397.311(31)
168 ~~s. 397.311(30)~~. Where consistent with these objectives, the plan
169 may include services rendered by physicians, clinics, community
170 hospitals, and alternative delivery sites, as well as at least
171 one regional referral hospital per service area. The plan shall
172 provide that agreements negotiated between the governing board,
173 agency, or authority and providers shall recognize hospitals
174 that render a disproportionate share of indigent care, provide

586-03458-09

20092612c1

175 other incentives to promote the delivery of charity care to draw
176 down federal funds where appropriate, and require cost
177 containment, including, but not limited to, case management.
178 From the funds specified in subparagraphs (d)1. and 2. for
179 indigent health care services, service providers shall receive
180 reimbursement at a Medicaid rate to be determined by the
181 governing board, agency, or authority created pursuant to this
182 paragraph for the initial emergency room visit, and a per-member
183 per-month fee or capitation for those members enrolled in their
184 service area, as compensation for the services rendered
185 following the initial emergency visit. Except for provisions of
186 emergency services, upon determination of eligibility,
187 enrollment shall be deemed to have occurred at the time services
188 were rendered. The provisions for specific reimbursement of
189 emergency services shall be repealed on July 1, 2001, unless
190 otherwise reenacted by the Legislature. The capitation amount or
191 rate shall be determined prior to program implementation by an
192 independent actuarial consultant. In no event shall such
193 reimbursement rates exceed the Medicaid rate. The plan must also
194 provide that any hospitals owned and operated by government
195 entities on or after the effective date of this act must, as a
196 condition of receiving funds under this subsection, afford
197 public access equal to that provided under s. 286.011 as to any
198 meeting of the governing board, agency, or authority the subject
199 of which is budgeting resources for the retention of charity
200 care, as that term is defined in the rules of the Agency for
201 Health Care Administration. The plan shall also include
202 innovative health care programs that provide cost-effective
203 alternatives to traditional methods of service and delivery

586-03458-09

20092612c1

204 funding.

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

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

213 5. At the end of each fiscal year, the governing board,
214 agency, or authority shall prepare an audit that reviews the
215 budget of the plan, delivery of services, and quality of
216 services, and makes recommendations to increase the plan's
217 efficiency. The audit shall take into account participant
218 hospital satisfaction with the plan and assess the amount of
219 poststabilization patient transfers requested, and accepted or
220 denied, by the county public general hospital.

221 Section 2. Subsection (21) of section 394.67, Florida
222 Statutes, is amended to read:

223 394.67 Definitions.—As used in this part, the term:

224 (21) "Residential treatment center for children and
225 adolescents" means a 24-hour residential program, including a
226 therapeutic group home, which provides mental health services to
227 emotionally disturbed children or adolescents as defined in s.
228 394.492(5) or (6) and which is a private for-profit or not-for-
229 profit corporation licensed by the agency ~~under contract with~~
230 ~~the department~~ which offers a variety of treatment modalities in
231 a more restrictive setting.

232 Section 3. Section 394.674, Florida Statutes, is amended to

586-03458-09

20092612c1

read:

394.674 ~~Client Clinical~~ eligibility for publicly funded substance abuse and mental health services; fee collection requirements.—

(1) To be eligible to receive substance abuse and mental health services funded by the department, a person must be a member of at least one of the department's priority populations ~~target groups~~ approved by the Legislature, ~~pursuant to s.~~

~~216.0166.~~ The priority populations include:

(a) For adult mental health services:

1. Adults who have severe and persistent mental illness, as designated by the department using criteria that include severity of diagnosis, duration of the mental illness, ability to independently perform activities of daily living, and receipt of disability income for a psychiatric condition. Included within this group are:

a. Older adults in crisis.

b. Older adults who are at risk of being placed in a more restrictive environment because of their mental illness.

c. Persons deemed incompetent to proceed or not guilty by reason of insanity under chapter 916.

d. Other persons involved in the criminal justice system.

e. Persons diagnosed as having co-occurring mental illness and substance use disorders.

2. Persons who are experiencing an acute mental or emotional crisis as defined in s. 394.67(17).

(b) For children's mental health services:

1. Children who are at risk of emotional disturbance as defined in s. 394.492(4).

586-03458-09

20092612c1

262 2. Children who have an emotional disturbance as defined in
263 s. 394.492(5).

264 3. Children who have a serious emotional disturbance as
265 defined in s. 394.492(6).

266 4. Children diagnosed as having a co-occurring substance
267 abuse and emotional disturbance or serious emotional
268 disturbance.

269 (c) For substance abuse treatment services:

270 1. Adults who have substance abuse disorders and a history
271 of intravenous drug use.

272 2. Persons diagnosed as having co-occurring substance abuse
273 and mental health disorders.

274 3. Parents who put children at risk due to a substance
275 abuse disorder.

276 4. Persons who have a substance abuse disorder and have
277 been ordered by the court to receive treatment.

278 5. Children at risk for initiating drug use.

279 6. Children under state supervision.

280 7. Children who have a substance abuse disorder but who are
281 not under the supervision of a court or in the custody of a
282 state agency.

283 8. Persons identified as being part of a priority
284 population as a condition for receiving services funded through
285 the Mental Health and Substance Abuse Block Grant.

286 (2) Crisis services, as defined in s. 394.67, must, within
287 the limitations of available state and local matching resources,
288 be available to each person who is eligible for services under
289 subsection (1), regardless of the person's ability to pay for
290 such services. A person who is experiencing a mental health

586-03458-09

20092612c1

291 crisis and who does not meet the criteria for involuntary
292 examination under s. 394.463(1), or a person who is experiencing
293 a substance abuse crisis and who does not meet the involuntary
294 admission criteria in s. 397.675, must contribute to the cost of
295 his or her care and treatment pursuant to the sliding fee scale
296 developed under subsection (4), unless charging a fee is
297 contraindicated because of the crisis situation.

298 (3) Mental health services, substance abuse services, and
299 crisis services, as defined in s. 394.67, must, within the
300 limitations of available state and local matching resources, be
301 available to each person who is eligible for services under
302 subsection (1). Such person must contribute to the cost of his
303 or her care and treatment pursuant to the sliding fee scale
304 developed under subsection (4).

305 (4) The department shall adopt rules to implement client
306 ~~the clinical~~ eligibility, client enrollment, and fee collection
307 requirements for publicly funded substance abuse and mental
308 health services.

309 (a) The rules must require ~~that~~ each provider under
310 contract with the department which enrolls eligible persons into
311 treatment to develop a sliding fee scale for persons who have a
312 net family income at or above 150 percent of the Federal Poverty
313 Income Guidelines, unless otherwise required by state or federal
314 law. The sliding fee scale must use the uniform schedule of
315 discounts by which a provider under contract with the department
316 discounts its established client charges for services supported
317 with state, federal, or local funds, using, at a minimum,
318 factors such as family income, financial assets, and family size
319 as declared by the person or the person's guardian. The rules

586-03458-09

20092612c1

320 must include uniform criteria to be used by all service
321 providers in developing the schedule of discounts for the
322 sliding fee scale.

323 (b) The rules must address the most expensive types of
324 treatment, such as residential and inpatient treatment, in order
325 to make it possible for a client to responsibly contribute to
326 his or her mental health or substance abuse care without
327 jeopardizing the family's financial stability. A person who is
328 not eligible for Medicaid and whose net family income is less
329 than 150 percent of the Federal Poverty Income Guidelines must
330 pay a portion of his or her treatment costs which is comparable
331 to the copayment amount required by the Medicaid program for
332 Medicaid clients pursuant to s. 409.9081.

333 (c) The rules must require that persons who receive
334 financial assistance from the Federal Government because of a
335 disability and are in long-term residential treatment settings
336 contribute to their board and care costs and treatment costs and
337 must be consistent with the provisions in s. 409.212.

338 (5) A person who meets the eligibility criteria in
339 subsection (1) shall be served in accordance with the
340 appropriate district substance abuse and mental health services
341 plan specified in s. 394.75 and within available resources.

342 Section 4. Subsection (6) of section 394.9085, Florida
343 Statutes, is amended to read:

344 394.9085 Behavioral provider liability.—

345 (6) For purposes of this section, the terms "detoxification
346 program," "addictions receiving facility," and "receiving
347 facility" have the same meanings as those provided in ss.

348 397.311(17) ~~397.311(18)(b), 397.311(18)(a),~~ and 394.455(26),

586-03458-09

20092612c1

349 respectively.

350 Section 5. Section 397.301, Florida Statutes, is amended to
351 read:

352 397.301 Short title.—This act may be cited as the “Hal S.
353 Marchman Alcohol and Other Drug Services Act ~~of 1993~~.”

354 Section 6. Section 397.305, Florida Statutes, is amended to
355 read:

356 397.305 Legislative findings, intent, and purpose.—

357 (1) Substance abuse is a major health problem that affects
358 multiple service systems and leads to such profoundly disturbing
359 consequences as serious impairment, chronic addiction, criminal
360 behavior, vehicular casualties, spiraling health care costs,
361 AIDS, and business losses, and significantly ~~profoundly~~ affects
362 the culture, socialization, and learning ability of children
363 within our schools and educational systems. Substance abuse
364 impairment is a disease which affects the whole family and the
365 whole society and requires a system of care that includes
366 ~~specialized~~ prevention, intervention, clinical ~~and~~ treatment,
367 and recovery support services that support and strengthen the
368 family unit. Further, it is the intent of the Legislature to
369 require the collaboration of state agencies, services, and
370 program offices to achieve the goals of this chapter and address
371 the needs of the public; to establish a comprehensive system of
372 care for substance abuse; and to reduce duplicative requirements
373 across state agencies. This chapter is designed to provide for
374 substance abuse services.

375 (2) It is the goal of the Legislature to discourage
376 substance abuse by promoting healthy lifestyles, healthy
377 families, and drug-free schools, workplaces, and communities.

586-03458-09

20092612c1

378 ~~(3)(2)~~ It is the purpose of this chapter to provide for a
379 comprehensive continuum of accessible and quality substance
380 abuse prevention, intervention, clinical ~~and treatment, and~~
381 recovery support services in the least restrictive environment
382 which promotes long-term recovery while protecting and
383 respecting ~~of optimum care that protects and respects~~ the rights
384 of individuals ~~elients, especially for involuntary admissions,~~
385 primarily through community-based private not-for-profit
386 providers working with local governmental programs involving a
387 wide range of agencies from both the public and private sectors.

388 ~~(4)(3)~~ It is the intent of the Legislature to ensure within
389 available resources a full system of care for ~~continuum of~~
390 substance abuse services based on ~~projected~~ identified needs,
391 delivered without discrimination and with adequate provision for
392 specialized needs.

393 (5) It is the intent of the Legislature to establish
394 services for individuals with co-occurring substance use and
395 mental disorders.

396 ~~(4) It is the goal of the Legislature to discourage~~
397 ~~substance abuse by promoting healthy lifestyles and drug-free~~
398 ~~schools, workplaces, and communities.~~

399 ~~(5) It is the purpose of the Legislature to integrate~~
400 ~~program evaluation efforts, adequate administrative support~~
401 ~~services, and quality assurance strategies with direct service~~
402 ~~provision requirements and to ensure funds for these purposes.~~

403 ~~(6) It is the intent of the Legislature to require the~~
404 ~~cooperation of departmental programs, services, and program~~
405 ~~offices in achieving the goals of this chapter and addressing~~
406 ~~the needs of clients.~~

586-03458-09

20092612c1

407 ~~(6)(7)~~ It is the intent of the Legislature to provide, ~~for~~
408 ~~substance abuse impaired adult and juvenile offenders,~~ an
409 alternative to criminal imprisonment for substance abuse
410 impaired adults and juvenile offenders by encouraging the
411 referral of such offenders to service providers not generally
412 available within the juvenile justice and correctional systems,
413 ~~system~~ instead of or in addition to criminal penalties.

414 ~~(7)(8)~~ It is the intent of the Legislature to provide,
415 within the limits of appropriations and safe management of the
416 juvenile justice and correctional systems ~~system,~~ substance
417 abuse services to substance abuse impaired offenders who are
418 placed by the Department of Juvenile Justice or who are
419 incarcerated within the Department of Corrections, in order to
420 better enable these offenders or inmates to adjust to the
421 conditions of society presented to them when their terms of
422 placement or incarceration end.

423 ~~(8)(9)~~ It is the intent of the Legislature to provide for
424 assisting substance abuse impaired persons primarily through
425 health and other rehabilitative services in order to relieve the
426 police, courts, correctional institutions, and other criminal
427 justice agencies of a burden that interferes with their ability
428 to protect people, apprehend offenders, and maintain safe and
429 orderly communities.

430 ~~(10)~~ ~~It is the purpose of the Legislature to establish a~~
431 ~~clear framework for the comprehensive provision of substance~~
432 ~~abuse services in the context of a coordinated and orderly~~
433 ~~system.~~

434 ~~(9)(11)~~ It is the intent of the Legislature that the
435 freedom of religion of all citizens shall be inviolate. Nothing

586-03458-09

20092612c1

in this act shall give any governmental entity jurisdiction to regulate religious, spiritual, or ecclesiastical services.

Section 7. Section 397.311, Florida Statutes, is amended to read:

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

(1) "Ancillary services" are services that ~~which~~ include, but are not limited to, special diagnostic, prenatal and postnatal, other medical, mental health, legal, economic, vocational, employment, and educational services.

~~(2) "Assessment" means the systematic evaluation of information gathered to determine the nature and severity of the client's substance abuse problem and the client's need and motivation for services. Assessment entails the use of a psychosocial history supplemented, as required by rule, by medical examinations, laboratory testing, and psychometric measures.~~

(2)(3) "Authorized agent of the department" means a person designated by the department to conduct any audit, inspection, monitoring, evaluation, or other duty imposed upon the department pursuant to this chapter. An authorized agent must be qualified by expertise and experience to perform these functions. ~~identified by the department as:~~

~~(a) Qualified by the requisite expertise and experience;~~
~~(b) Having a need to know the applicable information; and~~
~~(c) Having the assigned responsibility to carry out the applicable duty.~~

(3)(4) "Beyond the safe management capabilities of the service provider" refers to an individual ~~a client~~ who is in

586-03458-09

20092612c1

need of:

- (a) Supervision;
- (b) Medical care; or
- (c) Services,

beyond that which the service provider or service component can deliver.

(4) "Clinical assessment" means the collection of detailed information concerning an individual's substance use, emotional and physical health, social roles, and other areas that may reflect the severity of the individual's abuse of alcohol or drugs. The collection of information serves as a basis for identifying an appropriate treatment regimen.

~~(5) "Client" means a recipient of alcohol or other drug services delivered by a service provider but does not include an inmate pursuant to part VIII unless expressly so provided.~~

~~(6) "Client identifying information" means the name, address, social security number, fingerprints, photograph, and similar information by which the identity of a client can be determined with reasonable accuracy and speed either directly or by reference to other publicly available information.~~

(5)-(7) "Court" means, with respect to all involuntary proceedings under this chapter, the circuit court of the county in which the judicial proceeding is pending or where the substance abuse impaired person resides or is located, and includes any general or special magistrate that may be appointed by the chief judge to preside over all or part of such proceeding. Otherwise, "court" refers to the court of legal jurisdiction in the context in which the term is used in this

586-03458-09

20092612c1

chapter.

~~(6)-(8)~~ "Department" means the Department of Children and Family Services.

~~(7)-(9)~~ "Director" means the chief administrative or executive officer of a service provider.

~~(8)-(10)~~ "Disclose" or "disclosure" means a communication of ~~client~~ identifying information, the affirmative verification of another person's communication of ~~client~~ identifying information, or the communication of any information regarding an individual of a client who has received services ~~been identified~~. Any disclosure made pursuant to this chapter must be limited to that information which is necessary to carry out the purpose of the disclosure.

~~(9)-(11)~~ "Fee system" means a method of establishing charges for services rendered, in accordance with an individual's ~~a client's~~ ability to pay, used by providers that receive state funds.

~~(10)-(12)~~ "For profit" means registered as for profit by the Secretary of State and recognized by the Internal Revenue Service as a for-profit entity.

~~(11)-(13)~~ "Habitual abuser" means a person who is brought to the attention of law enforcement for being substance impaired, who meets the criteria for involuntary admission in s. 397.675, and who has been taken into custody for such impairment three or more times during the preceding 12 months.

~~(12)-(14)~~ "Hospital" means a hospital or hospital-based component licensed under chapter 395.

~~(13)~~ "Identifying information" means the name, address, social security number, fingerprints, photograph, and similar

586-03458-09

20092612c1

523 information by which the identity of an individual can be
524 determined with reasonable accuracy directly or by reference to
525 other publicly available information.

526 ~~(14)(15)~~ "Impaired" or "substance abuse impaired" means a
527 condition involving the use of alcoholic beverages or any
528 psychoactive or mood-altering substance in such a manner as to
529 induce mental, emotional, or physical problems and cause
530 socially dysfunctional behavior.

531 (15) "Individual" means a person who receives alcohol or
532 other drug abuse treatment services delivered by a service
533 provider. The term does not include an inmate pursuant to part
534 VIII of this chapter unless expressly so provided.

535 ~~(16) "Individualized treatment or service plan" means an~~
536 ~~immediate and a long-range plan for substance abuse or ancillary~~
537 ~~services developed on the basis of a client's assessed needs.~~

538 ~~(16)(17)~~ "Law enforcement officer" means a law enforcement
539 officer as defined in s. 943.10(1).

540 ~~(17)(18)~~ "Licensed service provider" means a public agency
541 under this chapter, a private for-profit or not-for-profit
542 agency under this chapter, a physician or any other private
543 practitioner licensed under this chapter, or a hospital that
544 offers substance abuse ~~impairment~~ services through one or more
545 ~~of the following~~ licensable service components. Licensable
546 service components include a comprehensive continuum of
547 accessible and quality substance abuse prevention, intervention,
548 and clinical treatment services, including the following
549 services:

550 (a) "Clinical treatment" means a professionally directed,
551 deliberate, and planned regimen of services and interventions

586-03458-09

20092612c1

552 that are designed to reduce or eliminate the misuse of drugs and
553 alcohol and promote a healthy, drug-free lifestyle. As defined
554 by rule, "clinical treatment services" include, but are not
555 limited to, the following licensable service components:

556 1. "Addictions receiving facility" is a secure, acute care
557 facility operated 24 hours per day, 7 days per week, and
558 designated by the department to serve individuals found to be
559 substance use impaired as described in s. 397.675 who meet the
560 placement criteria for this component.

561 2. "Day or night treatment" is a service provided in a
562 nonresidential environment, with a structured schedule of
563 treatment and rehabilitative services.

564 3. "Day or night treatment with community housing" means a
565 program intended for individuals who can benefit from living
566 independently in peer community housing while participating in
567 treatment services for a minimum of 5 hours a day for a minimum
568 of 25 hours per week.

569 4. "Detoxification" is a service involving subacute care
570 that is provided on an inpatient or an outpatient basis to
571 assist individuals to withdraw from the physiological and
572 psychological effects of substance use disorders and who meet
573 the placement criteria for this component.

574 5. "Intensive inpatient treatment" includes a planned
575 regimen of evaluation, observation, medical monitoring, and
576 clinical protocols delivered through an interdisciplinary team
577 approach provided 24 hours per day, 7 days per week, in a highly
578 structured, live-in environment.

579 6. "Intensive outpatient treatment" is a service that
580 provides individual or group counseling in a more structured

586-03458-09

20092612c1

581 environment, is of higher intensity and duration than outpatient
582 treatment, and is provided to individuals who meet the placement
583 criteria for this component.

584 7. "Medication-assisted treatment for opiate addiction" is
585 a service that uses methadone or other medication as authorized
586 by state and federal law, in combination with medical,
587 rehabilitative, and counseling services in the treatment of
588 individuals who are dependent on opioid drugs.

589 8. "Outpatient treatment" is a service that provides
590 individual, group, or family counseling by appointment during
591 scheduled operating hours for individuals who meet the placement
592 criteria for this component.

593 9. "Residential treatment" is a service provided in a
594 structured live-in environment within a nonhospital setting on a
595 24-hours-per-day, 7-days-per-week basis, and is intended for
596 individuals who meet the placement criteria for this component.

597 (b) "Intervention" means structured services directed
598 toward individuals or groups at risk of substance abuse and
599 focused on reducing or impeding those factors associated with
600 the onset or the early stages of substance use and related
601 problems.

602 (c) "Prevention" means a process involving strategies that
603 are aimed at the individual, family, community, or substance and
604 that preclude, forestall, or impede the development of substance
605 use problems and promote responsible lifestyles.

606 ~~(a) Addictions receiving facility, which is a community-~~
607 ~~based facility designated by the department to receive, screen,~~
608 ~~and assess clients found to be substance abuse impaired, in need~~
609 ~~of emergency treatment for substance abuse impairment, or~~

586-03458-09

20092612c1

610 ~~impaired by substance abuse to such an extent as to meet the~~
611 ~~criteria for involuntary admission in s. 397.675, and to provide~~
612 ~~detoxification and stabilization. An addictions receiving~~
613 ~~facility must be state-owned, state-operated, or state-~~
614 ~~contracted, and licensed pursuant to rules adopted by the~~
615 ~~department's Substance Abuse Program Office which include~~
616 ~~specific authorization for the provision of levels of care and a~~
617 ~~requirement of separate accommodations for adults and minors.~~
618 ~~Addictions receiving facilities are designated as secure~~
619 ~~facilities to provide an intensive level of care and must have~~
620 ~~sufficient staff and the authority to provide environmental~~
621 ~~security to handle aggressive and difficult-to-manage behavior~~
622 ~~and deter elopement.~~

623 ~~(b) Detoxification, which uses medical and psychological~~
624 ~~procedures and a supportive counseling regimen to assist clients~~
625 ~~in managing toxicity and withdrawing and stabilizing from the~~
626 ~~physiological and psychological effects of substance abuse~~
627 ~~impairment.~~

628 ~~(c) Intensive inpatient treatment, which includes a planned~~
629 ~~regimen of professionally directed evaluation, observation,~~
630 ~~medical monitoring, and clinical protocols provided 24 hours per~~
631 ~~day, 7 days per week, in a highly structured, live-in~~
632 ~~environment.~~

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

- 636 ~~1. Facilities that provide room and board and treatment and~~
637 ~~rehabilitation within the primary residential facility; and~~
638 ~~2. Facilities that are used for room and board only and in~~

586-03458-09

20092612c1

639 ~~which treatment and rehabilitation activities are provided on a~~
640 ~~mandatory basis at locations other than the primary residential~~
641 ~~facility. In this case, facilities used for room and board and~~
642 ~~for treatment and rehabilitation are operated under the auspices~~
643 ~~of the same provider, and licensing and regulatory requirements~~
644 ~~would apply to both the residential facility and all other~~
645 ~~facilities in which treatment and rehabilitation activities~~
646 ~~occur.~~

647 ~~(e) Day and night treatment, which provides a~~
648 ~~nonresidential environment with a structured schedule of~~
649 ~~treatment and rehabilitation services.~~

650 ~~(f) Outpatient treatment, which provides individual, group,~~
651 ~~or family counseling for clients by appointment during scheduled~~
652 ~~operating hours, with an emphasis on assessment and treatment.~~

653 ~~(g) Medication and methadone maintenance treatment that~~
654 ~~uses methadone or other medication as authorized by state and~~
655 ~~federal law, in conjunction with medical, rehabilitative, and~~
656 ~~counseling services in the treatment of clients who are~~
657 ~~dependent upon opioid drugs.~~

658 ~~(h) Prevention, which is a process involving strategies~~
659 ~~aimed at the individual, the environment, or the substance,~~
660 ~~which strategies preclude, forestall, or impede the development~~
661 ~~of substance abuse problems and promote responsible personal and~~
662 ~~social growth of individuals and families toward full human~~
663 ~~potential.~~

664 ~~(i) Intervention, which consists of structured services~~
665 ~~targeted toward individuals or groups at risk and focused on~~
666 ~~reducing those factors associated with the onset or the early~~
667 ~~stages of substance abuse, and related problems.~~

586-03458-09

20092612c1

668 (18) "Medication-assisted treatment (MAT)" is the use of
669 medications approved by the United States Food and Drug
670 Administration, in combination with counseling and behavioral
671 therapies, to provide a holistic approach to the treatment of
672 substance use disorders.

673 (19) "Medical monitoring" means oversight and treatment, 24
674 hours per day by medical personnel who are licensed under
675 chapter 458, chapter 459, or chapter 464, of individuals ~~clients~~
676 whose subacute ~~biomedical, emotional, psychosocial, behavioral,~~
677 ~~or cognitive~~ problems are so severe that the individuals ~~clients~~
678 require intensive inpatient treatment by an interdisciplinary
679 team.

680 (20) "Not for profit" means registered as not for profit by
681 the Secretary of State and recognized by the Internal Revenue
682 Service as a not-for-profit entity.

683 (21) "Physician" means a person licensed under chapter 458
684 to practice medicine or licensed under chapter 459 to practice
685 osteopathic medicine, and may include, if the context so
686 indicates, an intern or resident enrolled in an intern or
687 resident training program affiliated with an approved medical
688 school, hospital, or other facility through which training
689 programs are normally conducted.

690 ~~(22) "Preliminary screening" means the gathering of initial~~
691 ~~information to be used in determining a person's need for~~
692 ~~assessment or for referral.~~

693 (22) ~~(23)~~ "Private practitioner" means a physician licensed
694 under chapter 458 or chapter 459, a psychologist licensed under
695 chapter 490, or a clinical social worker, marriage and family
696 therapist, or mental health counselor licensed under chapter

586-03458-09

20092612c1

491.

~~(23)-(24)~~ "Program evaluation" or "evaluation" means a systematic measurement of a service provider's achievement of desired individual ~~client~~ or service outcomes.

~~(24)-(25)~~ "Qualified professional" means a physician licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced registered nurse practitioner licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree. A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

~~(25)~~ "Quality improvement" means a systematic and organized approach to monitor and continuously improve the quality of services in order to maintain, restore, or improve outcomes in individuals and populations throughout a system of care.

~~(26)~~ "Recovery" means a process of personal change through which individuals achieve abstinence from alcohol or drug use and improve health, wellness, and quality of life.

~~(27)~~ "Recovery support" means services designed to strengthen or assist individuals to regain skills, develop the environmental supports necessary to help the individual thrive in the community, and meet life goals that promote recovery from

586-03458-09

20092612c1

726 alcohol and drug use. These services include, but are not
727 limited to, economic, vocational, employment, educational,
728 housing, and other ancillary services.

729 (28) "Screening" means the gathering of initial information
730 to be used in determining a person's need for assessment,
731 services, or referral.

732 ~~(26) "Quality assurance" means the objective and internal~~
733 ~~systematic monitoring of the appropriateness and quality of~~
734 ~~client care rendered by a service provider.~~

735 (29)~~(27)~~ "Secure facility," except where the context
736 indicates a correctional system facility, means a provider that
737 has the authority to deter the premature departure of
738 involuntary individuals ~~clients~~ whose leaving constitutes a
739 violation of a court order or community-based supervision as
740 provided by law. The term "secure facility" includes addictions
741 receiving facilities and facilities authorized by local
742 ordinance for the treatment of habitual abusers.

743 (30) "Service component" or "component" means a discrete
744 operational entity within a service provider which is subject to
745 licensing as defined by rule. Service components include
746 prevention, intervention, and clinical treatment described in
747 subsection (17).

748 (31)~~(28)~~ "Service provider" or "provider" means a public
749 agency, a private for-profit or not-for-profit agency, a person
750 who is a private practitioner, or a hospital licensed under this
751 chapter or exempt from licensure under this chapter.

752 (32)~~(29)~~ "Service provider personnel" or "personnel"
753 includes all owners, directors, chief financial officers, staff,
754 and volunteers, including foster parents, of a service provider.

586-03458-09

20092612c1

(33)~~(30)~~ "Stabilization" means:

- (a) Alleviation of a crisis condition; or
- (b) Prevention of further deterioration,

and connotes short-term emergency treatment.

(34) "Substate entity" means a departmental office designated to serve a geographical area specified by the department.

(35) "System of care" means a coordinated continuum of community-based services and supports that are organized to meet the challenges and needs of individuals who are at risk of developing substance abuse problems or individuals who have substance abuse problems.

(36) "Treatment plan" means an immediate and a long-range plan based upon an individual's assessed needs and used to address and monitor an individual's recovery from substance abuse.

Section 8. Subsections (2), (7), (14), (17), (18), (19), and (20) of section 397.321, Florida Statutes, are amended to read:

397.321 Duties of the department.—The department shall:

(2) Ensure that a plan for substance abuse services is developed at the local substate entity ~~district~~ level in accordance with the provisions of part IV of chapter 394.

(7) Ensure that each licensed service provider develops a system and procedures for:

- (a) Clinical ~~Client~~ assessment.
- (b) ~~Individualized Treatment or services~~ planning.
- (c) ~~Client~~ Referral.

586-03458-09

20092612c1

(d) ~~Client~~ Progress reviews.

(e) ~~Client~~ Followup.

(14) In cooperation with service providers, foster and actively seek additional funding to enhance resources for prevention, intervention, clinical and treatment, and recovery support services, including, but not limited to, the development of partnerships with:

(a) Private industry.

(b) Intradepartmental and interdepartmental program offices, including, but not limited to, child care services; family safety; delinquency services; health services; economic services; and children's medical services.

(c) State agencies, including, but not limited to, the Department ~~Departments~~ of Corrections, the Department of Education, the Department of Juvenile Justice, the Department of Community Affairs, the Department of Elderly Affairs, the Department of Health, the Department of Financial Services, and the Agency for Health Care Administration ~~Insurance~~.

(17) Develop a certification process by rule for community substance abuse prevention coalitions.

(18) ~~(17)~~ Provide sufficient and qualified staff to oversee all contracting, licensing, and planning functions within each of its substate ~~district~~ offices, as permitted by legislative appropriation.

(19) ~~(18)~~ Ensure that the department develops and ensures the implementation of procedures between its Substance Abuse Program Office and other departmental programs regarding the referral of substance abuse impaired persons to service providers, information on service providers, information on

586-03458-09

20092612c1

813 methods of identifying substance abuse impaired juveniles, and
814 procedures for referring such juveniles to appropriate service
815 providers.

816 ~~(20)~~(19) Designate addictions receiving facilities for the
817 purpose of ensuring that only qualified service providers render
818 services within the context of a secure facility setting.

819 ~~(20) The department may establish in District 9, in~~
820 ~~cooperation with the Palm Beach County Board of County~~
821 ~~Commissioners, a pilot project to serve in a managed care~~
822 ~~arrangement non-Medicaid eligible persons who qualify to receive~~
823 ~~substance abuse or mental health services from the department.~~
824 ~~The department may contract with a not-for-profit entity to~~
825 ~~conduct the pilot project. The results of the pilot project~~
826 ~~shall be reported to the district administrator, and the~~
827 ~~secretary 18 months after the initiation. The department shall~~
828 ~~incur no additional administrative costs for the pilot project.~~

829 Section 9. Paragraph (b) of subsection (1) of section
830 397.331, Florida Statutes, is amended to read:

831 397.331 Definitions; legislative intent.—

832 (1) As used in this act, the term:

833 (b) "Substance abuse programs and services" or "drug
834 control" applies generally to the broad continuum of prevention,
835 intervention, clinical and treatment, recovery support
836 initiatives, ~~and~~ efforts to limit substance abuse, and also
837 ~~includes~~ initiatives and efforts by law enforcement agencies to
838 limit substance abuse.

839 Section 10. Subsections (1), (3), and (4) of section
840 397.401, Florida Statutes, are amended to read:

841 397.401 License required; penalty; injunction; rules

586-03458-09

20092612c1

842 waivers.-

843 (1) It is unlawful for any person or agency to act as a
844 substance abuse service provider unless it is licensed or exempt
845 from licensure under this chapter.

846 (3) The department may maintain an action in circuit court
847 to enjoin the unlawful operation of a substance abuse service
848 provider if the department first gives the violator 14 days'
849 notice of its intent to maintain such action and the violator
850 fails to apply for licensure within that 14-day period. If the
851 department determines that the health, safety, and welfare of
852 individuals are ~~clients is~~ jeopardized, the department may move
853 to enjoin the operation at any time during the 14-day period. If
854 the service provider has already applied for licensure under
855 this chapter and has been denied licensure, the department may
856 move immediately to obtain an injunction.

857 (4) In accordance with this subsection, the department may
858 waive rules adopted pursuant to this chapter in order to allow
859 service providers to demonstrate and evaluate innovative or
860 cost-effective substance abuse services alternatives. Rules
861 waivers may be granted only in instances where there is
862 reasonable assurance that the health, safety, or welfare of
863 individuals ~~clients~~ will not be endangered. To apply for a rules
864 waiver, the applicant must be a service provider licensed under
865 this chapter and must submit to the department a written
866 description of the concept to be demonstrated, including:

867 (a) Objectives and anticipated benefits.

868 (b) The number and types of individuals ~~clients~~ who will be
869 affected.

870 (c) A description of how the demonstration will be

586-03458-09

20092612c1

871 evaluated.

872 (d) Any other information requested by the department.

873
874 A service provider granted a rules waiver under this subsection
875 must submit a detailed report of the results of its findings to
876 the department within 12 months after receiving the rules
877 waiver. Upon receiving and evaluating the detailed report, the
878 department may renew or revoke the rules waiver or seek any
879 regulatory or statutory changes necessary to allow other service
880 providers to implement the same alternative service.

881 Section 11. Paragraph (e) of subsection (1) and subsection
882 (3) of section 397.403, Florida Statutes, are amended to read:
883 397.403 License application.—

884 (1) Applicants for a license under this chapter must apply
885 to the department on forms provided by the department and in
886 accordance with rules adopted by the department. Applications
887 must include at a minimum:

888 (e) Sufficient information to conduct background screening
889 as provided in s. 397.451.

890 1. If the results of the background screening indicate that
891 any owner, director, or chief financial officer has been found
892 guilty of, regardless of adjudication, or has entered a plea of
893 nolo contendere or guilty to any offense prohibited under the
894 screening standard, a license may not be issued to the applicant
895 service provider unless an exemption from disqualification has
896 been granted by the department as set forth in chapter 435. The
897 owner, director, or chief financial officer ~~manager~~ has 90 days
898 within which to obtain the required exemption, during which time
899 the applicant's license remains in effect.

586-03458-09

20092612c1

2. If any owner, director, or chief financial officer is arrested or found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to any offense prohibited under the screening standard while acting in that capacity, the provider shall immediately remove the person from that position and shall notify the department within 2 days after such removal, excluding weekends and holidays. Failure to remove the owner, director, or chief financial officer ~~manager~~ will result in revocation of the provider's license.

(3) The department shall accept proof of accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) ~~CARF-the Rehabilitation Accreditation Commission~~ or the ~~Joint Commission on Accreditation of Health Care Organizations (JCAHCO)~~, or through any other nationally recognized certification process that is acceptable to the department and meets the minimum licensure requirements under this chapter, in lieu of requiring the applicant to submit the information required by paragraphs (1)(a)-(c).

Section 12. Section 397.405, Florida Statutes, is amended to read:

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

(1) A hospital or hospital-based component licensed under chapter 395.

(2) A nursing home facility as defined in s. 400.021.

(3) A substance abuse education program established pursuant to s. 1003.42.

(4) A facility or institution operated by the Federal Government.

586-03458-09

20092612c1

929 (5) A physician licensed under chapter 458 or chapter 459.

930 (6) A psychologist licensed under chapter 490.

931 (7) A social worker, marriage and family therapist, or
932 mental health counselor licensed under chapter 491.

933 (8) A ~~An established and~~ legally cognizable church or
934 nonprofit religious organization or denomination providing
935 substance abuse services, including prevention services, which
936 are solely ~~exclusively~~ religious, spiritual, or ecclesiastical
937 in nature. A church or nonprofit religious organization or
938 denomination providing any of the licensable service components
939 itemized under s. 397.311(17) ~~s. 397.311(18)~~ is not exempt from
940 substance abuse licensure ~~for purposes of its provision of such~~
941 ~~licensable service components~~ but retains its exemption with
942 respect to all services which are solely ~~exclusively~~ religious,
943 spiritual, or ecclesiastical in nature.

944 (9) Facilities licensed under chapter 393 which, in
945 addition to providing services to persons with developmental
946 disabilities, also provide services to persons developmentally
947 at risk as a consequence of exposure to alcohol or other legal
948 or illegal drugs while in utero.

949 (10) DUI education and screening services provided pursuant
950 to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons
951 or entities providing treatment services must be licensed under
952 this chapter unless exempted from licensing as provided in this
953 section.

954 (11) A facility licensed under s. 394.875 as a crisis
955 stabilization unit.

956
957 The exemptions from licensure in this section do not apply to

586-03458-09

20092612c1

any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. Furthermore, this chapter may not be construed to limit the practice of a physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, ~~or~~ a psychotherapist licensed under chapter 491, or an advanced registered nurse practitioner licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, psychologist, ~~or psychotherapist,~~ or advanced registered nurse practitioner does not represent to the public that he or she is a licensed service provider and does not provide services to individuals ~~clients~~ pursuant to part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 13. Section 397.406, Florida Statutes, is amended to read:

397.406 Licensure and regulation of government-operated substance abuse programs.—Substance abuse programs operated directly or under contract by the department, the Department of Corrections, the Department of Juvenile Justice, any other state agency, or any local correctional agency or authority, which programs constitute any service provider licensable components as defined in this chapter, are subject to licensure and regulation in accordance with rules jointly developed by the department and the state or local agency operating the program. The department has authority to promulgate rules exempting such

586-03458-09

20092612c1

government-operated programs from specific licensure provisions of this part, including, but not limited to, licensure fees and personnel background checks, and to enforce the regulatory requirements governing such programs.

Section 14. Section 397.407, Florida Statutes, is amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish by rule the licensure process to include fees and categories of licenses ~~fees by rule~~.

The rule must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s.

397.311(17) ~~s. 397.311(18)~~ which are operated by a licensee. ~~The fee range must be implemented over a 5-year period. The fee~~

~~schedule for licensure of service components must be increased annually in substantially equal increments so that, by July 1,~~

~~1998,~~ The fees from the licensure of service components are sufficient to cover at least 50 percent of the costs of

regulating the service components. The department shall specify by rule a fee range for public and privately funded ~~and phase-in~~

~~plan for privately funded licensed service providers and a fee range and phase-in plan for publicly funded licensed service~~

~~providers~~. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service

providers. During adoption of the rule governing the licensure process and fees, the department shall carefully consider the

potential adverse impact on small, not-for-profit service

providers. ~~The first year phase-in licensure fees must be at~~

~~least \$150 per initial license. The rule must provide for a~~

~~reduction in licensure fees for licensed service providers who~~

586-03458-09

20092612c1

1016 ~~held more than one license.~~

1017 (2) The department shall assess a fee of \$100 per licensed
1018 service component ~~license~~ for the late filing of an application
1019 for renewal of a license.

1020 (3) Licensure and renewal fees must be deposited in the
1021 Operations and Maintenance Trust Fund to be used for the actual
1022 cost of monitoring, inspecting, and overseeing licensed service
1023 providers.

1024 (4) Each application for licensure or renewal must be
1025 accompanied by the required fee, except that a service provider
1026 that has an all-volunteer staff is exempt from the licensure and
1027 renewal fees.

1028 (5) The department may issue probationary, regular, and
1029 interim licenses. After adopting the rule governing the
1030 licensure process and fees, the department shall issue one
1031 license for each service component that is operated by a service
1032 provider and defined in rule pursuant to s. 397.311(17). The
1033 license is valid only for the specific service components listed
1034 for each specific location identified on the license. The
1035 licensed service provider shall apply for a new license at least
1036 60 days before the addition of any service components or 30 days
1037 before the relocation of any of its service sites. Provision of
1038 service components or delivery of services at a location not
1039 identified on the license may be considered an unlicensed
1040 operation that authorizes the department to seek an injunction
1041 against operation as provided in s. 397.401, in addition to
1042 other sanctions authorized by s. 397.415. Probationary and
1043 regular licenses may be issued only after all required
1044 information has been submitted. A license may not be

586-03458-09

20092612c1

1045 transferred. As used in this subsection, the term "transfer"
1046 includes, but is not limited to, the transfer of a majority of
1047 the ownership interest in the licensed entity or transfer of
1048 responsibilities under the license to another entity by
1049 contractual arrangement.

1050 (6) A probationary license may be issued to a service
1051 provider applicant in the initial stages of developing services
1052 that are not yet fully operational upon completion of all
1053 application requirements itemized in s. 397.403(1) and upon
1054 demonstration of the applicant's ability to comply with all
1055 applicable statutory and regulatory requirements. A probationary
1056 license expires 90 days after issuance and may be reissued once
1057 for an additional 90-day period if the applicant has
1058 substantially complied with all requirements for regular
1059 licensure or has initiated action to satisfy all requirements.
1060 During the probationary period the department shall monitor the
1061 delivery of services. Notwithstanding s. 120.60(5), the
1062 department may order a probationary licensee to cease and desist
1063 operations at any time it is found to be substantially out of
1064 compliance with licensure standards. This cease-and-desist order
1065 is exempt from the requirements of s. 120.60(6).

1066 (7) A regular license may be issued to:

1067 (a) A new applicant at the end of the probationary period.

1068 (b) A licensed applicant that holds a regular license and
1069 is seeking renewal.

1070 (c) An applicant for a service component operating under an
1071 interim license upon successful satisfaction of the requirements
1072 for a regular license.

586-03458-09

20092612c1

In order to be issued a regular license, the applicant must be in compliance with statutory and regulatory requirements. Standards and timeframes for the issuance of a regular license must be established by rule. An application for renewal of a regular license must be submitted to the department at least 60 days before the license expires.

(8) The department may issue an interim license to a service provider for a period established by the department which does not exceed 90 days if the department finds that:

(a) A service component of the provider is in substantial noncompliance with licensure standards;

(b) The service provider has failed to provide satisfactory proof of conformance to fire, safety, or health requirements; or

(c) The service provider is involved in license suspension or revocation proceedings.

An interim license applies only to the licensable service component of the provider's services which is in substantial noncompliance with statutory or regulatory requirements. An interim license expires 90 days after it is issued; however, it may be reissued once for an additional 90-day period in a case of extreme hardship in which the noncompliance is not attributable to the licensed service provider. If the service provider is appealing the final disposition of license suspension or revocation proceedings, the court before which the appeal is taken may order the extension of the interim license for a period specified in the order.

(9) A separate license is required for each service component maintained by the service provider.

586-03458-09

20092612c1

1103 (10) The license must be displayed in a conspicuous place
1104 inside the facility providing the licensed service component.

1105 Section 15. Section 397.409, Florida Statutes, is repealed.

1106 Section 16. Subsection (3) of section 397.411, Florida
1107 Statutes, is amended, present subsection (5) of that section is
1108 redesignated as subsection (6), and a new subsection (5) is
1109 added to that section, to read:

1110 397.411 Inspection; right of entry; records.—

1111 (3) Notwithstanding the confidentiality provisions of this
1112 chapter, a designated and authorized agent of the department may
1113 access the records of the individuals served by ~~clients of~~
1114 licensed service providers, but only for purposes of licensing,
1115 monitoring, and investigation. The department may interview
1116 individuals ~~clients~~, as specified by rule.

1117 (5) In an effort to coordinate inspections among agencies,
1118 the department shall notify applicable state agencies of any
1119 scheduled licensure inspections of service providers jointly
1120 served by the agencies.

1121 Section 17. Subsections (1), (2), and (4) of section
1122 397.415, Florida Statutes, are amended to read:

1123 397.415 Denial, suspension, and revocation; other
1124 remedies.—

1125 (1) If the department determines that an applicant or
1126 licensed service provider or licensed service component thereof
1127 is not in compliance with all statutory and regulatory
1128 requirements, the department may deny, suspend, revoke, or
1129 impose reasonable restrictions or penalties on the license or
1130 any portion of the license. In such case, the department:

1131 (a) May impose a moratorium on admissions to any service

586-03458-09

20092612c1

1132 component of a licensed service provider if the department
1133 determines that conditions ~~within such component~~ are a threat to
1134 the public health or safety.

1135 (b) May impose an administrative penalty of up to \$500 per
1136 day against a licensed service provider operating in violation
1137 of any fire-related, safety-related, or health-related statutory
1138 or regulatory requirement. Fines collected under this paragraph
1139 must be deposited in the Operations and Maintenance Substance
1140 ~~Abuse Impairment Provider Licensing~~ Trust Fund.

1141 (c) May suspend or revoke the license of a service provider
1142 or may suspend or revoke the license as to the operation of any
1143 service component or location identified on the license if,
1144 after notice, the department ~~it~~ determines that a service
1145 provider has failed to correct the substantial or chronic
1146 violation of any statutory or regulatory requirement that ~~such~~
1147 ~~as~~ impacts the quality of ~~client~~ care.

1148 (2) If a provider's license is revoked ~~of a facility or any~~
1149 ~~service component of a facility is revoked~~, the service provider
1150 is barred from submitting any application for licensure of the
1151 affected facility or service component to the department for a
1152 period of 1 year after the revocation. If the provider's license
1153 is revoked as to any service component or location identified on
1154 the license, the provider is barred from applying for licensure
1155 of the affected service component or location for 1 year after
1156 the revocation.

1157 (4) The department may maintain an action in court to
1158 enjoin the operation of any licensed or unlicensed provider,
1159 service component, or location ~~facility~~ in violation of this
1160 chapter or the rules adopted under this chapter.

586-03458-09

20092612c1

1161 Section 18. Section 397.416, Florida Statutes, is amended
1162 to read:

1163 397.416 Substance abuse treatment services; qualified
1164 professional.—Notwithstanding any other provision of law, a
1165 person who was certified through a certification process
1166 recognized by the former Department of Health and Rehabilitative
1167 Services before January 1, 1995, may perform the duties of a
1168 qualified professional with respect to substance abuse treatment
1169 services as defined in this chapter, and need not meet the
1170 certification requirements contained in s. 397.311(22) ~~s.~~
1171 ~~397.311(25)~~.

1172 Section 19. Section 397.419, Florida Statutes, is amended
1173 to read:

1174 397.419 Quality improvement ~~assurance~~ programs.—

1175 (1) Each service provider must maintain a ~~an ongoing~~
1176 quality improvement ~~assurance~~ program to objectively and
1177 systematically monitor and evaluate the appropriateness and
1178 quality of ~~client~~ care, to ensure that services are rendered
1179 consistent with prevailing professional standards, and to
1180 identify and resolve problems.

1181 (2) For each service provider, a written plan must be
1182 developed with a copy made available upon request ~~submitted~~ to
1183 the department which addresses the minimum guidelines for the
1184 provider's quality improvement ~~assurance~~ program, including, but
1185 not limited to:

- 1186 (a) Individual ~~Client~~ care and services standards.
1187 (b) Individual ~~Client~~ records maintenance procedures.
1188 (c) Staff development policies and procedures.
1189 (d) Service-environment ~~Facility~~ safety and maintenance

586-03458-09

20092612c1

standards.

(e) Peer review and utilization management review procedures.

(f) Incident reporting policies and procedures that include, including verification of corrective action, and provision for reporting to the department within a time period prescribed by rule, documentation that incident reporting is the affirmative duty of all staff, and a provision that specifies that a person who files an incident report may not be subjected to any civil action by virtue of that incident report.

(3) The quality improvement ~~assurance~~ program is the responsibility of the director and is subject to review and approval by the governing board of the service provider.

(4) Each director shall designate a person who is an employee of or under contract with the service provider as the provider's quality improvement ~~assurance~~ manager.

~~(5) Incident reporting is the affirmative duty of all staff.~~

~~(6) A person who files an incident report may not be subjected to any civil action by virtue of that incident report.~~

(5) ~~(7)~~ The department may access all service provider records necessary to determine compliance with this section. Records relating solely to actions taken in carrying out this section and records obtained by the department to determine a provider's compliance with this section are confidential and exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such records are not admissible in any civil or administrative action except in disciplinary proceedings by the Department of Business and Professional

586-03458-09

20092612c1

1219 Regulation or the appropriate regulatory board, and are not part
1220 of the record of investigation and prosecution in disciplinary
1221 proceedings made available to the public by the Department of
1222 Business and Professional Regulation or the appropriate
1223 regulatory board. Meetings or portions of meetings of quality
1224 improvement ~~assurance~~ program committees that relate solely to
1225 actions taken pursuant to this section are exempt from s.
1226 286.011.

1227 ~~(6)-(8)~~ The quality improvement ~~assurance~~ program must also
1228 ~~shall be implemented as part of the department's contract~~
1229 ~~management process. The quality assurance program shall:~~

1230 ~~(a) Track performance measures and standards established by~~
1231 ~~the Legislature as part of the performance-based program~~
1232 ~~budgeting process;~~

1233 ~~(a)-(b)~~ Provide a framework for evaluating outcomes ~~which is~~
1234 ~~separate from the performance-based program budgeting process,~~
1235 including:

1236 1. Output measures, such as capacities, technologies, and
1237 infrastructure, that make up the system of care.

1238 2. Process measures, such as administrative and clinical
1239 components of treatment.

1240 3. Outcome measures pertaining to the outcomes of services;

1241 ~~(b)-(c)~~ Provide for a system of analyzing those factors
1242 which have an effect on performance at the local level;

1243 ~~(c)-(d)~~ Provide for a system of reporting the results of
1244 quality improvement ~~assurance~~ reviews; and

1245 ~~(d)-(e)~~ Incorporate best practice models for use in
1246 improving performance in those areas which are deficient.

1247 ~~(9) The quality assurance program shall incorporate a peer~~

586-03458-09

20092612c1

1248 ~~review process into its protocol, to include:~~

1249 ~~(a) Reviews of providers by departmental district staff and~~
1250 ~~other providers.~~

1251 ~~(b) Reviews of individual districts by other districts.~~

1252 (7) ~~(10)~~ Contingent upon specific appropriation, a quality
1253 improvement ~~assurance~~ coordinator position shall be established
1254 within each substate entity service district to oversee the
1255 implementation and operation of the quality improvement
1256 ~~assurance~~ program.

1257 Section 20. Section 397.427, Florida Statutes, is amended
1258 to read:

1259 397.427 Medication-assisted ~~Medication~~ treatment service
1260 providers; rehabilitation program; needs assessment and
1261 provision of services; persons authorized to issue takeout
1262 medication ~~methadone~~; unlawful operation; penalty.—

1263 (1) ~~Medication treatment service~~ Providers of medication-
1264 assisted treatment services for opiate addiction may not be
1265 licensed unless they provide supportive rehabilitation programs.
1266 Supportive rehabilitation programs include, but are not limited
1267 to, counseling, therapy, and vocational rehabilitation.

1268 (2) The department shall determine the need for
1269 establishing ~~medication treatment service~~ providers of
1270 medication-assisted treatment services for opiate addiction.

1271 (a) ~~Medication treatment service~~ Providers of medication-
1272 assisted treatment services for opiate addiction may be
1273 established only in response to the department's determination
1274 and publication of need for additional medication treatment
1275 services.

1276 (b) The department shall prescribe by rule the types of

586-03458-09

20092612c1

1277 medication-assisted ~~medication~~ treatment services for opiate
1278 addiction for which it is necessary to conduct annual
1279 assessments of need. If needs assessment is required, the
1280 department shall annually conduct the assessment and publish a
1281 statement of findings which identifies each substate entity's
1282 ~~district's~~ need.

1283 (c) Notwithstanding paragraphs (a) and (b), the license for
1284 medication-assisted ~~medication~~ treatment programs for opiate
1285 addiction licensed before October 1, 1990, may not be revoked
1286 solely because of the department's determination concerning the
1287 need for medication-assisted ~~medication~~ treatment services for
1288 opiate addiction.

1289 (3) The department shall adopt rules necessary to
1290 administer this section, including, but not limited to, rules
1291 prescribing criteria and procedures for:

1292 (a) Determining the need for additional medication-assisted
1293 ~~medication~~ treatment services for opiate addiction.

1294 (b) Selecting ~~medication treatment service~~ providers for
1295 medication-assisted treatment services for opiate addiction when
1296 the number of responses to a publication of need exceeds the
1297 determined need.

1298 (c) Administering any federally required rules,
1299 regulations, or procedures.

1300 (4) A service provider operating in violation of this
1301 section is subject to proceedings in accordance with this
1302 chapter to enjoin that unlawful operation.

1303 (5) Notwithstanding ~~the provisions of~~ s. 465.019(2), a
1304 registered nurse, an advanced registered nurse practitioner, or
1305 a licensed practical nurse working for a licensed service

586-03458-09

20092612c1

1306 provider is authorized to deliver takeout medication for opiate
1307 treatment ~~methadone~~ to persons enrolled in a ~~methadone~~
1308 maintenance treatment program for medication-assisted treatment
1309 for opiate addiction if ~~provided that~~:

1310 (a) The medication-assisted ~~methadone maintenance~~ treatment
1311 program for opiate addiction has an appropriate valid permit
1312 issued pursuant to rules adopted ~~promulgated~~ by the Board of
1313 Pharmacy;

1314 (b) The medication for treatment of opiate addiction has
1315 been delivered pursuant to a valid prescription written by the
1316 program's physician licensed pursuant to chapter 458 or chapter
1317 459;

1318 (c) The medication for treatment of opiate addiction which
1319 is ordered appears on a formulary and is prepackaged and
1320 prelabeled with dosage instructions and distributed from a
1321 source authorized under chapter 499;

1322 (d) Each licensed provider adopts written protocols which
1323 provide for supervision of the registered nurse, advanced
1324 registered nurse practitioner, or licensed practical nurse by a
1325 physician licensed pursuant to chapter 458 or chapter 459 and
1326 for the procedures by which patients' medications may be
1327 delivered by the registered nurse, advanced registered nurse
1328 practitioner, or licensed practical nurse. Such protocols shall
1329 be signed by the supervising physician and either the
1330 administering registered nurse, the advanced registered nurse
1331 practitioner, or the licensed practical nurse.

1332 (e) Each licensed service provider maintains and has
1333 available for inspection by representatives of the Board of
1334 Pharmacy all medical records and patient care protocols,

586-03458-09

20092612c1

including records of medications delivered to patients, in accordance with the board.

(6) The department shall also determine the need for establishing medication-assisted treatment for substance-use disorders other than opiate dependence. Service providers within the publicly funded system shall be funded for provision of these services based on the availability of funds.

(7) Service providers that provide medication-assisted treatment for substance use disorders other than opiate dependence shall provide counseling services in conjunction with medication-assisted treatment.

(8) The department shall adopt rules necessary to administer medication-assisted treatment services, including, but not limited to, rules prescribing criteria and procedures for:

(a) Determining the need for medication-assisted treatment services within the publicly funded system.

(b) Selecting medication-assisted service providers within the publicly funded system.

(c) Administering any federally required rules, regulations, or procedures related to the provision of medication-assisted treatment.

(9) A registered nurse, an advanced registered nurse practitioner, or a licensed practical nurse working for a licensed service provider may deliver medication as prescribed by rule if:

(a) The service provider authorized to provide medication-assisted treatment has an appropriate valid permit issued pursuant to rules adopted by the Board of Pharmacy;

586-03458-09

20092612c1

1364 (b) The medication has been delivered pursuant to a valid
1365 prescription written by the program's physician who is licensed
1366 under chapter 458 or chapter 459; and

1367 (c) The medication ordered appears on a formulary or meets
1368 federal requirements for medication-assisted treatment.

1369 (10) Each licensed service provider that provides
1370 medication-assisted treatment must adopt written protocols as
1371 specified by the department and in accordance with federally
1372 required rules, regulations, or procedures. The protocol shall
1373 provide for the supervision of the registered nurse, advanced
1374 registered nurse practitioner, or licensed practical nurse
1375 working under the supervision of a physician who is licensed
1376 under chapter 458 or chapter 459. The protocol must specify how
1377 the medication will be used in conjunction with counseling or
1378 psychosocial treatment and that the services provided will be
1379 included on the treatment plan. The protocol must specify the
1380 procedures by which medication-assisted treatment may be
1381 delivered by the registered nurse, advanced registered nurse
1382 practitioner, or licensed practical nurse. These protocols shall
1383 be signed by the supervising physician and the administering
1384 registered nurse, advanced registered nurse practitioner, or
1385 licensed practical nurse.

1386 (11) Each licensed service provider shall maintain and have
1387 available for inspection by representatives of the Board of
1388 Pharmacy all medical records and protocols, including records of
1389 medications delivered to individuals in accordance with rules of
1390 the board.

1391 Section 21. Section 397.431, Florida Statutes, is amended
1392 to read:

586-03458-09

20092612c1

1393 397.431 Individual ~~Client~~ responsibility for cost of
1394 substance abuse impairment services.—

1395 (1) Before ~~Prior to~~ accepting an individual ~~a client~~ for
1396 admission and in accordance with confidentiality guidelines,
1397 both the full charge for services and the fee charged to the
1398 individual ~~client~~ for such services under the provider's fee
1399 system or payment policy must be disclosed to each individual
1400 ~~client~~ or his or her authorized personal representative, or
1401 parent or legal guardian if the individual ~~client~~ is a minor who
1402 did not seek treatment voluntarily and without parental consent.

1403 (2) An individual ~~A client~~ or his or her authorized
1404 personal representative, or parent or legal guardian if the
1405 individual ~~client~~ is a minor, is required to contribute toward
1406 the cost of substance abuse services in accordance with his or
1407 her ability to pay, unless otherwise provided by law.

1408 (3) The parent, legal guardian, or legal custodian of a
1409 minor is not liable for payment for any substance abuse services
1410 provided to the minor without parental consent pursuant to s.
1411 397.601(4), unless the parent, legal guardian, or legal
1412 custodian participates or is ordered to participate in the
1413 services, and only for the substance abuse services rendered. If
1414 the minor is receiving services as a juvenile offender, the
1415 obligation to pay is governed by the law relating to juvenile
1416 offenders.

1417 (4) Service providers that do not contract for state funds
1418 to provide substance abuse services as defined in this chapter
1419 may establish their own admission policies regarding provisions
1420 for payment for services. Such policies must comply with other
1421 statutory and regulatory requirements governing state or federal

586-03458-09

20092612c1

reimbursements to a provider for services delivered to
individuals ~~individual clients~~. As used in this subsection, the
term "contract for state funds" does not include Medicaid funds.

(5) Service providers that contract for state funds to
provide substance abuse services as defined in this chapter must
establish a fee system based upon an individual's ~~a client's~~
ability to pay and, if space and sufficient state resources are
available, may not deny an individual ~~a client~~ access to
services solely on the basis of the individual's ~~client's~~
inability to pay.

Section 22. Paragraphs (a) and (e) of subsection (1) of
section 397.451, Florida Statutes, are amended to read:

397.451 Background checks of service provider personnel.—

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
EXCEPTIONS.—

(a) Background checks shall apply as follows:

1. All owners, directors, and chief financial officers of
service providers are subject to level 2 background screening as
provided under chapter 435. Inmate substance abuse programs
operated directly or under contract with the Department of
Corrections are exempt from this requirement.

2. All service provider personnel who have direct contact
with children receiving services or with adults who are
developmentally disabled receiving services are subject to level
2 background screening as provided under chapter 435.

(e) Personnel employed directly or under contract with ~~by~~
the Department of Corrections in an inmate substance abuse
program ~~a substance abuse service component~~ who have direct
contact with unmarried inmates under the age of 18 or with

586-03458-09

20092612c1

1451 inmates who are developmentally disabled are exempt from the
1452 fingerprinting and background check requirements of this
1453 section.

1454 Section 23. Paragraphs (a) and (b) of subsection (1) of
1455 section 397.471, Florida Statutes, are amended to read:

1456 397.471 Service provider facility standards.—

1457 (1) Each service provider must ensure:

1458 (a) Sufficient numbers and types of qualified personnel on
1459 duty and available to provide necessary and adequate ~~client~~
1460 safety and care.

1461 (b) Adequate space for each individual served within ~~client~~
1462 ~~of~~ a residential facility.

1463 Section 24. Section 397.501, Florida Statutes, is amended
1464 to read:

1465 397.501 Rights of individuals ~~clients~~.—Individuals ~~Clients~~
1466 receiving substance abuse services from any service provider are
1467 guaranteed protection of the rights specified in this section,
1468 unless otherwise expressly provided, and service providers must
1469 ensure the protection of such rights.

1470 (1) RIGHT TO INDIVIDUAL DIGNITY.—The ~~individual~~ dignity of
1471 the individual served ~~client~~ must be respected at all times and
1472 upon all occasions, including any occasion when the individual
1473 ~~client~~ is admitted, retained, or transported. Individuals served
1474 ~~Substance abuse clients~~ who are not accused of a crime or
1475 delinquent act may not be detained or incarcerated in jails,
1476 detention centers, or training schools of the state, except for
1477 purposes of protective custody in strict accordance with this
1478 chapter. An individual ~~A client~~ may not be deprived of any
1479 constitutional right.

586-03458-09

20092612c1

(2) RIGHT TO NONDISCRIMINATORY SERVICES.—

(a) Service providers may not deny an individual ~~a client~~ access to substance abuse services solely on the basis of race, gender, ethnicity, age, sexual preference, human immunodeficiency virus status, prior service departures against medical advice, disability, or number of relapse episodes. Service providers may not deny an individual ~~a client~~ who takes medication prescribed by a physician access to substance abuse services solely on that basis. Service providers who receive state funds to provide substance abuse services may not, if ~~provided~~ space and sufficient state resources are available, deny ~~a client~~ access to services based solely on inability to pay.

(b) Each individual ~~client~~ in treatment must be afforded the opportunity to participate in the formulation and periodic review of his or her individualized treatment or service plan to the extent of his or her ability to so participate.

(c) It is the policy of the state to use the least restrictive and most appropriate services available, based on the needs and the best interests of the individual ~~client~~ and consistent with optimum care of the individual ~~client~~.

(d) Each individual ~~client~~ must be afforded the opportunity to participate in activities designed to enhance self-image.

(3) RIGHT TO QUALITY SERVICES.—

(a) Each individual ~~client~~ must be delivered services suited to his or her needs, administered skillfully, safely, humanely, with full respect for his or her dignity and personal integrity, and in accordance with all statutory and regulatory requirements.

586-03458-09

20092612c1

(b) These services must include the use of methods and techniques to control aggressive ~~client~~ behavior that poses an immediate threat to the individual ~~client~~ or to other persons. Such methods and techniques include the use of restraints, the use of seclusion, the use of time-out, and other behavior management techniques. When authorized, these methods and techniques may be applied only by persons who are employed by service providers and trained in the application and use of these methods and techniques. The department must specify by rule the methods that may be used and the techniques that may be applied by service providers to control aggressive ~~client~~ behavior and must specify by rule the physical facility requirements for seclusion rooms, including dimensions, safety features, methods of observation, and contents.

(4) RIGHT TO COMMUNICATION.—

(a) Each individual ~~client~~ has the right to communicate freely and privately with other persons within the limitations imposed by service provider policy.

(b) Because the delivery of services can only be effective in a substance abuse free environment, close supervision of each individual's ~~client's~~ communications and correspondence is necessary, particularly in the initial stages of treatment, and the service provider must therefore set reasonable rules for telephone, mail, and visitation rights, giving primary consideration to the well-being and safety of individuals ~~clients~~, staff, and the community. It is the duty of the service provider to inform the individual ~~client~~ and his or her family if the family is involved at the time of admission about the provider's rules relating to communications and correspondence.

586-03458-09

20092612c1

1538 (5) RIGHT TO CARE AND CUSTODY OF PERSONAL EFFECTS OF
1539 ~~CLIENTS.~~ An individual ~~A client~~ has the right to possess
1540 clothing and other personal effects. The service provider may
1541 take temporary custody of the individual's ~~client's~~ personal
1542 effects only when required for medical or safety reasons, with
1543 the reason for taking custody and a list of the personal effects
1544 recorded in the individual's ~~client's~~ clinical record.

1545 (6) RIGHT TO EDUCATION OF MINORS.—Each minor ~~client~~ in a
1546 residential service component is guaranteed education and
1547 training appropriate to his or her needs. The service provider
1548 shall coordinate with local education agencies to ensure that
1549 education and training is provided to each minor ~~client~~ in
1550 accordance with other applicable laws and regulations and that
1551 parental responsibilities related to such education and training
1552 are established within the provisions of such applicable laws
1553 and regulations. ~~Nothing in~~ This chapter does not ~~may be~~
1554 ~~construed to~~ relieve any local education authority of its
1555 obligation under law to provide a free and appropriate education
1556 to every child.

1557 (7) RIGHT TO CONFIDENTIALITY OF INDIVIDUAL ~~CLIENT~~ RECORDS.—

1558 (a) The records of service providers which pertain to the
1559 identity, diagnosis, and prognosis of and service provision to
1560 any individual ~~client~~ are confidential in accordance with this
1561 chapter and with applicable federal confidentiality regulations
1562 and are exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a),
1563 Art. I of the State Constitution. Such records may not be
1564 disclosed without the written consent of the individual ~~client~~
1565 to whom they pertain except that appropriate disclosure may be
1566 made without such consent:

586-03458-09

20092612c1

1567 1. To medical personnel in a medical emergency.

1568 2. To service provider personnel if such personnel need to
1569 know the information in order to carry out duties relating to
1570 the provision of services to an individual ~~a client~~.

1571 3. To the secretary of the department or the secretary's
1572 designee, for purposes of scientific research, in accordance
1573 with federal confidentiality regulations, but only upon
1574 agreement in writing that the individual's ~~client's~~ name and
1575 other identifying information will not be disclosed.

1576 4. In the course of review of service-provider records ~~on~~
1577 ~~service-provider premises~~ by persons who are performing an audit
1578 or evaluation on behalf of any federal, state, or local
1579 government agency, or third-party payor providing financial
1580 assistance or reimbursement to the service provider; however,
1581 reports produced as a result of such audit or evaluation may not
1582 disclose ~~client~~ names or other identifying information and must
1583 be in accordance ~~accord~~ with federal confidentiality
1584 regulations.

1585 5. Upon court order based on application showing good cause
1586 for disclosure. In determining whether there is good cause for
1587 disclosure, the court shall examine whether the public interest
1588 and the need for disclosure outweigh the potential injury to the
1589 individual ~~client~~, to the service provider and the individual
1590 ~~provider-client relationship~~, and to the service provider
1591 itself.

1592 (b) The restrictions on disclosure and use in this section
1593 do not apply to communications from provider personnel to law
1594 enforcement officers which:

1595 1. Are directly related to an individual's ~~a client's~~

586-03458-09

20092612c1

1596 commission of a crime on the premises of the provider or against
1597 provider personnel or to a threat to commit such a crime; and

1598 2. Are limited to the circumstances of the incident,
1599 including the ~~client~~ status of the individual committing or
1600 threatening to commit the crime, that individual's name and
1601 address, and that individual's last known whereabouts.

1602 (c) The restrictions on disclosure and use in this section
1603 do not apply to the reporting of incidents of suspected child
1604 abuse and neglect to the appropriate state or local authorities
1605 as required by law. However, such restrictions continue to apply
1606 to the original substance abuse ~~client~~ records maintained by the
1607 provider, including their disclosure and use for civil or
1608 criminal proceedings which may arise out of the report of
1609 suspected child abuse and neglect.

1610 (d) Any answer to a request for a disclosure of individual
1611 ~~client~~ records which is not permissible under this section or
1612 under the appropriate federal regulations must be made in a way
1613 that will not affirmatively reveal that an identified individual
1614 has been, or is being diagnosed or treated for substance abuse.
1615 The regulations do not restrict a disclosure that an identified
1616 individual is not and has never received services ~~has been a~~
1617 ~~client~~.

1618 (e)1. Since a minor acting alone has the legal capacity to
1619 voluntarily apply for and obtain substance abuse treatment, any
1620 written consent for disclosure may be given only by the minor
1621 ~~client~~. This restriction includes, but is not limited to, any
1622 disclosure of ~~client~~ identifying information to the parent,
1623 legal guardian, or custodian of a minor ~~client~~ for the purpose
1624 of obtaining financial reimbursement.

586-03458-09

20092612c1

1625 2. When the consent of a parent, legal guardian, or
1626 custodian is required under this chapter in order for a minor to
1627 obtain substance abuse treatment, any written consent for
1628 disclosure must be given by both the minor and the parent, legal
1629 guardian, or custodian.

1630 (f) An order of a court of competent jurisdiction
1631 authorizing disclosure and use of confidential information is a
1632 unique kind of court order. Its only purpose is to authorize a
1633 disclosure or use of ~~client~~ identifying information which would
1634 otherwise be prohibited by this section. Such an order does not
1635 compel disclosure. A subpoena or a similar legal mandate must be
1636 issued in order to compel disclosure. This mandate may be
1637 entered at the same time as, and accompany, an authorizing court
1638 order entered under this section.

1639 (g) An order authorizing the disclosure of an individual's
1640 ~~client~~ records may be applied for by any person having a legally
1641 recognized interest in the disclosure which is sought. The
1642 application may be filed separately or as part of a pending
1643 civil action in which it appears that the individual's ~~client~~
1644 records are needed to provide evidence. An application must use
1645 a fictitious name, such as John Doe or Jane Doe, to refer to any
1646 individual ~~client~~ and may not contain or otherwise disclose any
1647 ~~client~~ identifying information unless the individual ~~client~~ is
1648 the applicant or has given a written consent to disclosure or
1649 the court has ordered the record of the proceeding sealed from
1650 public scrutiny.

1651 (h) The individual ~~client~~ and the person holding the
1652 records from whom disclosure is sought must be given adequate
1653 notice in a manner which will not disclose ~~client~~ identifying

586-03458-09

20092612c1

information to other persons, and an opportunity to file a written response to the application, or to appear in person, for the limited purpose of providing evidence on the statutory and regulatory criteria for the issuance of the court order.

(i) Any oral argument, review of evidence, or hearing on the application must be held in the judge's chambers or in some manner which ensures that ~~client~~ identifying information is not disclosed to anyone other than a party to the proceeding, the individual ~~client~~, or the person holding the record, unless the individual ~~client~~ requests an open hearing. The proceeding may include an examination by the judge of the ~~client~~ records referred to in the application.

(j) A court may authorize the disclosure and use of ~~client~~ records for the purpose of conducting a criminal investigation or prosecution of an individual ~~a client~~ only if the court finds that all of the following criteria are met:

1. The crime involved is extremely serious, such as one which causes or directly threatens loss of life or serious bodily injury, including but not limited to homicide, sexual assault, sexual battery, kidnapping, armed robbery, assault with a deadly weapon, and child abuse and neglect.

2. There is reasonable likelihood that the records will disclose information of substantial value in the investigation or prosecution.

3. Other ways of obtaining the information are not available or would not be effective.

4. The potential injury to the individual ~~client~~, to the physician-individual ~~physician-client~~ relationship and to the ability of the program to provide services to other individuals

586-03458-09

20092612c1

1683 ~~clients~~ is outweighed by the public interest and the need for
1684 the disclosure.

1685 (8) RIGHT TO COUNSEL.—Each individual ~~client~~ must be
1686 informed that he or she has the right to be represented by
1687 counsel in any involuntary proceeding for assessment,
1688 stabilization, or treatment and that he or she, or if the
1689 individual ~~client~~ is a minor his or her parent, legal guardian,
1690 or legal custodian, may apply immediately to the court to have
1691 an attorney appointed if he or she cannot afford one.

1692 (9) RIGHT TO HABEAS CORPUS.—At any time, and without
1693 notice, an individual ~~a client~~ involuntarily retained by a
1694 provider, or the individual's ~~client's~~ parent, guardian,
1695 custodian, or attorney on behalf of the individual ~~client~~, may
1696 petition for a writ of habeas corpus to question the cause and
1697 legality of such retention and request that the court issue a
1698 writ for the individual's ~~client's~~ release.

1699 (10) LIABILITY AND IMMUNITY.—

1700 (a) Service provider personnel who violate or abuse any
1701 right or privilege of an individual ~~a client~~ under this chapter
1702 are liable for damages as determined by law.

1703 (b) All persons acting in good faith, reasonably, and
1704 without negligence in connection with the preparation or
1705 execution of petitions, applications, certificates, or other
1706 documents or the apprehension, detention, discharge,
1707 examination, transportation, or treatment of a person under the
1708 provisions of this chapter shall be free from all liability,
1709 civil or criminal, by reason of such acts.

1710 Section 25. Section 397.581, Florida Statutes, is amended
1711 to read:

586-03458-09

20092612c1

1712 397.581 Unlawful activities relating to ~~client~~ assessment
1713 and treatment; penalties.—

1714 (1) Knowingly furnishing false information for the purpose
1715 of obtaining emergency or other involuntary admission for any
1716 person is a misdemeanor of the first degree, punishable as
1717 provided in s. 775.082 and by a fine not exceeding \$5,000.

1718 (2) Causing or otherwise securing, or conspiring with or
1719 assisting another to cause or secure, without reason for
1720 believing a person to be impaired, any emergency or other
1721 involuntary procedure for the person is a misdemeanor of the
1722 first degree, punishable as provided in s. 775.082 and by a fine
1723 not exceeding \$5,000.

1724 (3) Causing, or conspiring with or assisting another to
1725 cause, the denial to any person of any right accorded pursuant
1726 to this chapter is a misdemeanor of the first degree, punishable
1727 as provided in s. 775.082 and by a fine not exceeding \$5,000.

1728 Section 26. Paragraph (a) of subsection (4) of section
1729 397.601, Florida Statutes, is amended to read:

1730 397.601 Voluntary admissions.—

1731 (4) (a) The disability of minority for persons under 18
1732 years of age is removed solely for the purpose of obtaining
1733 voluntary substance abuse impairment services from a licensed
1734 service provider, and consent to such services by a minor has
1735 the same force and effect as if executed by an individual ~~a~~
1736 ~~client~~ who has reached the age of majority. Such consent is not
1737 subject to later disaffirmance based on minority.

1738 Section 27. Subsections (1) and (3) of section 397.6751,
1739 Florida Statutes, are amended to read:

1740 397.6751 Service provider responsibilities regarding

586-03458-09

20092612c1

involuntary admissions.—

(1) It is the responsibility of the service provider to:

(a) Ensure that a person who is admitted to a licensed service component meets the admission criteria specified in s. 397.675;

(b) Ascertain whether the medical and behavioral conditions of the person, as presented, are beyond the safe management capabilities of the service provider;

(c) Provide for the admission of the person to the service component that represents the least restrictive available setting that is responsive to the person's treatment needs;

(d) Verify that the admission of the person to the service component does not result in a census in excess of its licensed service capacity;

(e) Determine whether the cost of services is within the financial means of the person or those who are financially responsible for the person's care; and

(f) Take all necessary measures to ensure that each individual ~~client~~ in treatment is provided with a safe environment, and to ensure that each individual ~~client~~ whose medical condition or behavioral problem becomes such that he or she cannot be safely managed by the service component is discharged and referred to a more appropriate setting for care.

(3) When, in the judgment of the service provider, the medical conditions or behavioral problems of an involuntary individual ~~client~~ become such that they cannot be safely managed by the service component, the service provider must discharge the individual ~~client~~ and attempt to assist him or her in securing more appropriate services in a setting more responsive

586-03458-09

20092612c1

to his or her needs. Upon completing these efforts, the service provider must, within 72 hours, report in writing to the referral source, in compliance with federal confidentiality regulations:

(a) The basis for the individual's ~~client's~~ discharge; and

(b) Documentation of the service provider's efforts to assist the person in gaining access to appropriate services.

Section 28. Section 397.6752, Florida Statutes, is amended to read:

397.6752 Referral of involuntarily admitted individual ~~client~~ for voluntary treatment.—Upon giving his or her written informed consent, an involuntarily admitted individual ~~client~~ may be referred to a service provider for voluntary admission when the service provider determines that the individual ~~client~~ no longer meets involuntary criteria.

Section 29. Section 397.6758, Florida Statutes, is amended to read:

397.6758 Release of individual ~~client~~ from protective custody, emergency admission, involuntary assessment, involuntary treatment, and alternative involuntary assessment of a minor.—An individual ~~A client~~ involuntarily admitted to a licensed service provider may be released without further order of the court only by a qualified professional in a hospital, a detoxification facility, an addictions receiving facility, or any less restrictive treatment component. Notice of the release must be provided to the applicant in the case of an emergency admission or an alternative involuntary assessment for a minor, or to the petitioner and the court if the involuntary assessment or treatment was court ordered. In the case of a minor ~~client~~,

586-03458-09

20092612c1

the release must be:

(1) To the individual's ~~client's~~ parent, legal guardian, or legal custodian or the authorized designee thereof;

(2) To the Department of Children and Family Services pursuant to s. 39.401; or

(3) To the Department of Juvenile Justice pursuant to s. 984.13.

Section 30. Section 397.6773, Florida Statutes, is amended to read:

397.6773 Dispositional alternatives after protective custody.—

(1) An individual ~~A-client~~ who is in protective custody must be released by a qualified professional when:

(a) The individual ~~client~~ no longer meets the involuntary admission criteria in s. 397.675(1);

(b) The 72-hour period has elapsed; or

(c) The individual ~~client~~ has consented to remain voluntarily at the licensed service provider.

(2) An individual ~~A-client~~ may only be retained in protective custody beyond the 72-hour period when a petition for involuntary assessment or treatment has been initiated. The timely filing of the petition authorizes the service provider to retain physical custody of the individual ~~client~~ pending further order of the court.

Section 31. Section 397.6797, Florida Statutes, is amended to read:

397.6797 Dispositional alternatives after emergency admission.—Within 72 hours after an emergency admission to a hospital or a licensed detoxification or addictions receiving

586-03458-09

20092612c1

1828 facility, the individual ~~client~~ must be assessed by the
1829 attending physician to determine the need for further services.
1830 Within 5 days after an emergency admission to a nonresidential
1831 component of a licensed service provider, the individual ~~client~~
1832 must be assessed by a qualified professional to determine the
1833 need for further services. Based upon that assessment, a
1834 qualified professional of the hospital, detoxification facility,
1835 or addictions receiving facility, or a qualified professional if
1836 a less restrictive component was used, must either:

1837 (1) Release the individual ~~client~~ and, where appropriate,
1838 refer the individual ~~client~~ to other needed services; or

1839 (2) Retain the individual ~~client~~ when:

1840 (a) The individual ~~client~~ has consented to remain
1841 voluntarily at the licensed provider; or

1842 (b) A petition for involuntary assessment or treatment has
1843 been initiated, the timely filing of which authorizes the
1844 service provider to retain physical custody of the individual
1845 ~~client~~ pending further order of the court.

1846 Section 32. Section 397.6799, Florida Statutes, is amended
1847 to read:

1848 397.6799 Disposition of minor ~~client~~ upon completion of
1849 alternative involuntary assessment.—A minor who has been
1850 assessed pursuant to s. 397.6798 must, within the time
1851 specified, be released or referred for further voluntary or
1852 involuntary treatment, whichever is most appropriate to the
1853 needs of the minor.

1854 Section 33. Section 397.6819, Florida Statutes, is amended
1855 to read:

1856 397.6819 Involuntary assessment and stabilization;

586-03458-09

20092612c1

responsibility of licensed service provider.—A licensed service provider may admit an individual ~~a client~~ for involuntary assessment and stabilization for a period not to exceed 5 days. The individual ~~client~~ must be assessed without unnecessary delay by a qualified professional. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician before ~~prior to~~ the end of the assessment period.

Section 34. Section 397.6821, Florida Statutes, is amended to read:

397.6821 Extension of time for completion of involuntary assessment and stabilization.—If a licensed service provider is unable to complete the involuntary assessment and, if necessary, stabilization of an individual ~~a client~~ within 5 days after the court's order, it may, within the original time period, file a written request for an extension of time to complete its assessment, and shall, in accordance with confidentiality requirements, furnish a copy to all parties. With or without a hearing, the court may grant additional time, not to exceed 7 days after the date of the renewal order, for the completion of the involuntary assessment and stabilization of the individual ~~client~~. The original court order authorizing the involuntary assessment and stabilization, or a request for an extension of time to complete the assessment and stabilization that is timely filed pursuant to this section, constitutes legal authority to involuntarily hold the individual ~~client~~ for a period not to exceed 10 days in the absence of a court order to the contrary.

Section 35. Section 397.6822, Florida Statutes, is amended to read:

586-03458-09

20092612c1

397.6822 Disposition of individual ~~client~~ after involuntary assessment.—Based upon the involuntary assessment, a qualified professional of the hospital, detoxification facility, or addictions receiving facility, or a qualified professional when a less restrictive component has been used, must:

(1) Release the individual ~~client~~ and, where appropriate, refer the individual ~~client~~ to another treatment facility or service provider, or to community services;

(2) Allow the individual ~~client~~, with consent ~~if the client has consented~~, to remain voluntarily at the licensed provider; or

(3) Retain the individual ~~client~~ when a petition for involuntary treatment has been initiated, the timely filing of which authorizes the service provider to retain physical custody of the individual ~~client~~ pending further order of the court.

Adhering to federal confidentiality regulations, notice of disposition must be provided to the petitioner and to the court.

Section 36. Subsections (1) and (3) of section 397.697, Florida Statutes, are amended to read:

397.697 Court determination; effect of court order for involuntary substance abuse treatment.—

(1) When the court finds that the conditions for involuntary substance abuse treatment have been proved by clear and convincing evidence, it may order the respondent to undergo involuntary treatment by a licensed service provider for a period not to exceed 60 days. If the court finds it necessary, it may direct the sheriff to take the respondent into custody and deliver him or her to the licensed service provider

586-03458-09

20092612c1

specified in the court order, or to the nearest appropriate licensed service provider, for involuntary treatment. When the conditions justifying involuntary treatment no longer exist, the individual ~~client~~ must be released as provided in s. 397.6971. When the conditions justifying involuntary treatment are expected to exist after 60 days of treatment, a renewal of the involuntary treatment order may be requested pursuant to s. 397.6975 prior to the end of the 60-day period.

(3) An involuntary treatment order authorizes the licensed service provider to require the individual ~~client~~ to undergo such treatment as will benefit him or her, including treatment at any licensable service component of a licensed service provider.

Section 37. Section 397.6971, Florida Statutes, is amended to read:

397.6971 Early release from involuntary substance abuse treatment.—

(1) At any time prior to the end of the 60-day involuntary treatment period, or prior to the end of any extension granted pursuant to s. 397.6975, an individual ~~a client~~ admitted for involuntary treatment may be determined eligible for discharge to the most appropriate referral or disposition for the individual ~~client~~ when:

(a) The individual ~~client~~ no longer meets the criteria for involuntary admission and has given his or her informed consent to be transferred to voluntary treatment status;

(b) If the individual ~~client~~ was admitted on the grounds of likelihood of infliction of physical harm upon himself or herself or others, such likelihood no longer exists; or

586-03458-09

20092612c1

(c) If the individual ~~client~~ was admitted on the grounds of need for assessment and stabilization or treatment, accompanied by inability to make a determination respecting such need, either:

1. Such inability no longer exists; or
2. It is evident that further treatment will not bring about further significant improvements in the individual's ~~client's~~ condition;

(d) The individual ~~client~~ is no longer in need of services; or

(e) The director of the service provider determines that the individual ~~client~~ is beyond the safe management capabilities of the provider.

(2) Whenever a qualified professional determines that an individual ~~a client~~ admitted for involuntary treatment is ready for early release for any of the reasons listed in subsection (1), the service provider shall immediately discharge the individual ~~client~~, and must notify all persons specified by the court in the original treatment order.

Section 38. Section 397.6975, Florida Statutes, is amended to read:

397.6975 Extension of involuntary substance abuse treatment period.—

(1) Whenever a service provider believes that an individual ~~a client~~ who is nearing the scheduled date of release from involuntary treatment continues to meet the criteria for involuntary treatment in s. 397.693, a petition for renewal of the involuntary treatment order may be filed with the court at least 10 days before ~~prior to~~ the expiration of the court-

586-03458-09

20092612c1

ordered treatment period. The court shall immediately schedule a hearing to be held not more than 15 days after filing of the petition. The court shall provide the copy of the petition for renewal and the notice of the hearing to all parties to the proceeding. The hearing is conducted pursuant to s. 397.6957.

(2) If the court finds that the petition for renewal of the involuntary treatment order should be granted, it may order the respondent to undergo involuntary treatment for a period not to exceed an additional 90 days. When the conditions justifying involuntary treatment no longer exist, the individual ~~client~~ must be released as provided in s. 397.6971. When the conditions justifying involuntary treatment continue to exist after 90 days of additional treatment, a new petition requesting renewal of the involuntary treatment order may be filed pursuant to this section.

Section 39. Section 397.6977, Florida Statutes, is amended to read:

397.6977 Disposition of individual ~~client~~ upon completion of involuntary substance abuse treatment.—At the conclusion of the 60-day period of court-ordered involuntary treatment, the individual ~~client~~ is automatically discharged unless a motion for renewal of the involuntary treatment order has been filed with the court pursuant to s. 397.6975.

Section 40. Paragraph (e) of subsection (2) of section 397.702, Florida Statutes, is amended to read:

397.702 Authorization of local ordinances for treatment of habitual abusers in licensed secure facilities.—

(2) Ordinances for the treatment of habitual abusers must provide:

586-03458-09

20092612c1

(e) That, if the individual ~~client~~ still meets the criteria for involuntary admission in s. 397.675 at or near the expiration of the treatment period ordered by the court pursuant to paragraph (d), the agent of the county or municipality may file another habitual abuser petition pursuant to paragraph (b) for a period not exceeding 180 days for each such petition.

Section 41. Subsections (2) and (3) of section 397.706, Florida Statutes, are amended to read:

397.706 Screening, assessment, and disposition of juvenile offenders.—

(2) The juvenile and circuit courts, in conjunction with department substate entity ~~district~~ administration, shall establish policies and procedures to ensure that juvenile offenders are appropriately screened for substance abuse problems and that diversionary and adjudicatory proceedings include appropriate conditions and sanctions to address substance abuse problems. Policies and procedures must address:

(a) The designation of local service providers responsible for screening and assessment services and dispositional recommendations to the department and the court.

(b) The means by which juvenile offenders are processed to ensure participation in screening and assessment services.

(c) The role of the court in securing assessments when juvenile offenders or their families are noncompliant.

(d) Safeguards to ensure that information derived through screening and assessment is used solely to assist in dispositional decisions and not for purposes of determining innocence or guilt.

(3) Because resources available to support screening and

586-03458-09

20092612c1

assessment services are limited, the judicial circuits and department substate entity ~~district~~ administration must develop those capabilities to the extent possible within available resources according to the following priorities:

(a) Juvenile substance abuse offenders.

(b) Juvenile offenders who are substance abuse impaired at the time of the offense.

(c) Second or subsequent juvenile offenders.

(d) Minors taken into custody.

Section 42. Subsection (2) of section 397.801, Florida Statutes, is amended to read:

397.801 Substance abuse impairment coordination.—

(2) The department shall establish, within each of its substate entities ~~service districts~~, the full-time position of substance abuse impairment prevention coordinator, to be filled by a person with expertise in the area of substance abuse impairment. The primary responsibility of this person is to develop and implement activities which foster the prevention of substance abuse impairment.

Section 43. Subsections (1) and (3) of section 397.821, Florida Statutes, are amended to read:

397.821 Juvenile substance abuse impairment prevention and early intervention councils.—

(1) Each judicial circuit as set forth in s. 26.021 may establish a juvenile substance abuse impairment prevention and early intervention council composed of at least 12 members, including representatives from law enforcement, the department, school districts, state attorney and public defender offices, the circuit court, the religious community, substance abuse

586-03458-09

20092612c1

2060 impairment professionals, child advocates from the community,
2061 business leaders, parents, and high school students. However,
2062 those circuits which already have in operation a council of
2063 similar composition may designate the existing body as the
2064 juvenile substance abuse impairment prevention and early
2065 intervention council for the purposes of this section. Each
2066 council shall establish bylaws providing for the length of term
2067 of its members, but the term may not exceed 4 years. The
2068 substate entity ~~district~~ administrator, as defined in s. 20.19,
2069 and the chief judge of the circuit court shall each appoint six
2070 members of the council. The substate entity ~~district~~
2071 administrator shall appoint a representative from the
2072 department, a school district representative, a substance abuse
2073 impairment treatment professional, a child advocate, a parent,
2074 and a high school student. The chief judge of the circuit court
2075 shall appoint a business leader and representatives from the
2076 state attorney's office, the public defender's office, the
2077 religious community, the circuit court, and law enforcement
2078 agencies.

2079 (3) The council shall provide recommendations to the
2080 Program Director for Substance Abuse annually for consideration
2081 for inclusion in the substance abuse ~~district alcohol, drug~~
2082 ~~abuse~~, and mental health substate-entity plans.

2083 Section 44. Subsection (1), paragraph (c) of subsection
2084 (2), and subsection (3) of section 397.94, Florida Statutes, are
2085 amended to read:

2086 397.94 Children's substance abuse services; information and
2087 referral network.—

2088 (1) Each substate entity ~~service district~~ of the department

586-03458-09

20092612c1

shall develop a plan for and implement a ~~districtwide~~ comprehensive children's substance abuse information and referral network to be operational by July 1, 2000.

(2) The substate entity ~~district~~ shall determine the most cost-effective method for delivering this service and may select a new provider or utilize an existing provider or providers with a record of success in providing information and referral services.

(c) Develop and implement procedures for documenting requests for services, including, but not limited to:

1. Number of calls by type of service requested, if any;
2. Ages of children for whom services are requested; and
3. Disposition on all referrals, including location of resource if referred for ~~face-to-face~~ screening.

(3) In planning the information and referral network, the substate entity ~~district~~ shall consider the establishment of a 24-hour toll-free telephone number to call for information and a public service campaign to inform the public about the information and referral service.

Section 45. Section 397.95, Florida Statutes, is amended to read:

397.95 Children's substance abuse services; services provided by licensed providers.—Each substate entity ~~service district~~ of the department shall ensure that all screening, intake, assessment, enrollment, service planning, and case management services provided under this part are provided by children's substance abuse services providers licensed under part II of this chapter and in accordance with standards set forth in department rules.

586-03458-09

20092612c1

2118 Section 46. Paragraph (a) of subsection (3) of section
2119 397.97, Florida Statutes, is amended to read:

2120 397.97 Children's substance abuse services; demonstration
2121 models.—

2122 (3) PURCHASE OF SERVICES; OPERATION CRITERIA.—

2123 (a) Each demonstration model shall be governed by a
2124 multiagency consortium of state and county agencies or other
2125 public agencies, or a community-based, not-for-profit substance
2126 abuse or behavioral health network designated by the department,
2127 hereafter referred to as the purchasing agent, which shall
2128 purchase individualized services for children who are at risk of
2129 substance abuse or have a substance abuse problem. Services
2130 shall be based on ~~client~~ need rather than on traditional
2131 services limited to narrowly defined cost centers or
2132 appropriations categories. Approval to operate as a Children's
2133 Network of Care Demonstration Model shall be given by the
2134 secretary of the department and shall be based on criteria
2135 developed by the department.

2136 Section 47. Paragraph (g) of subsection (2) of section
2137 397.99, Florida Statutes, is amended to read:

2138 397.99 School substance abuse prevention partnership
2139 grants.—

2140 (2) APPLICATION PROCEDURES; FUNDING REQUIREMENTS.—

2141 (g) The department shall consider the following in awarding
2142 such grants:

2143 1. The number of youths that will be targeted.

2144 2. The validity of the program design to achieve project
2145 goals and objectives that are clearly related to performance-
2146 based program budgeting effectiveness measures.

586-03458-09

20092612c1

2147 3. The desirability of funding at least one approved
2148 project in each of the department's substate entities ~~service~~
2149 ~~districts~~.

2150 Section 48. Paragraphs (d) and (g) of subsection (1) of
2151 section 440.102, Florida Statutes, are amended to read:

2152 440.102 Drug-free workplace program requirements.—The
2153 following provisions apply to a drug-free workplace program
2154 implemented pursuant to law or to rules adopted by the Agency
2155 for Health Care Administration:

2156 (1) DEFINITIONS.—Except where the context otherwise
2157 requires, as used in this act:

2158 (d) "Drug rehabilitation program" means a service provider,
2159 established pursuant to s. 397.311(29) ~~s. 397.311(28)~~, that
2160 provides confidential, timely, and expert identification,
2161 assessment, and resolution of employee drug abuse.

2162 (g) "Employee assistance program" means an established
2163 program capable of providing expert assessment of employee
2164 personal concerns; confidential and timely identification
2165 services with regard to employee drug abuse; referrals of
2166 employees for appropriate diagnosis, treatment, and assistance;
2167 and followup services for employees who participate in the
2168 program or require monitoring after returning to work. If, in
2169 addition to the above activities, an employee assistance program
2170 provides diagnostic and treatment services, these services shall
2171 in all cases be provided by service providers pursuant to s.
2172 397.311(29) ~~s. 397.311(28)~~.

2173 Section 49. Paragraph (a) of subsection (1) of section
2174 766.101, Florida Statutes, is amended to read:

2175 766.101 Medical review committee, immunity from liability.—

586-03458-09

20092612c1

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,

c. A committee of a state or local professional society of health care providers,

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

g. A committee of the Department of Children and Family Services which includes employees, agents, or consultants to the department as deemed necessary to provide peer review, utilization review, and mortality review of treatment services

586-03458-09

20092612c1

2205 provided pursuant to chapters 394, 397, and 916,

2206 h.g. A committee of a mental health treatment facility
2207 licensed under chapter 394 or a community mental health center
2208 as defined in s. 394.907, provided the quality assurance program
2209 operates pursuant to the guidelines which have been approved by
2210 the governing board of the agency,

2211 i.h. A committee of a substance abuse treatment and
2212 education prevention program licensed under chapter 397 provided
2213 the quality assurance program operates pursuant to the
2214 guidelines which have been approved by the governing board of
2215 the agency,

2216 j.i. A peer review or utilization review committee
2217 organized under chapter 440,

2218 k.j. A committee of the Department of Health, a county
2219 health department, healthy start coalition, or certified rural
2220 health network, when reviewing quality of care, or employees of
2221 these entities when reviewing mortality records, or

2222 l.k. A continuous quality improvement committee of a
2223 pharmacy licensed pursuant to chapter 465,

2224
2225 which committee is formed to evaluate and improve the quality of
2226 health care rendered by providers of health service, or to
2227 determine that health services rendered were professionally
2228 indicated or were performed in compliance with the applicable
2229 standard of care, or that the cost of health care rendered was
2230 considered reasonable by the providers of professional health
2231 services in the area; or

2232 2. A committee of an insurer, self-insurer, or joint
2233 underwriting association of medical malpractice insurance, or

586-03458-09

20092612c1

2234 other persons conducting review under s. 766.106.

2235 Section 50. Section 394.9081, Florida Statutes, is
2236 repealed.

2237 Section 51. This act shall take effect July 1, 2009.