

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SPB 7164

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Managing Entities

DATE: January 18, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Farmer	CF	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This proposed committee bill makes changes relating to behavioral health managing entities by allowing any corporation incorporated or registered in the state – whether for-profit or nonprofit – to be a managing entity. Additionally, the bill prohibits providers of substance abuse and mental health services from being a part of the managing entity’s governance structure.

The bill requires the Department of Children and Family Services (DCF) to negotiate a reasonable cost for the entire system of care, rather than just the administrative costs, and the bill modifies and clarifies DCF’s responsibilities and makes technical and conforming changes.

This bill substantially amends section 394.9082, Florida Statutes.

II. Present Situation:

History of Substance Abuse and Mental Health Managing Entities

The publicly funded substance abuse and mental health services in Florida are primarily provided through the Department of Children and Family Services (DCF or department). In 2001, the Legislature created s. 394.9082, F.S., and directed DCF and the Agency for Health Care Administration (AHCA or agency) to develop service delivery strategies to improve the coordination, integration, and management of the delivery of mental health and substance abuse services.¹ The department and AHCA were directed to contract with managing entities in at least

¹ Chapter 2001-191, s. 6, Laws of Fla. (creating s. 394.9082, F.S.).

two geographic areas to test the service delivery strategies.² The 2003 Legislature established separate Substance Abuse and Mental Health program offices within DCF. The services from these programs are provided statewide through a district structure.³

In 2008, the Legislature amended s. 394.9082, F.S., authorizing the department to implement Behavioral Health Managing Entities. The goal in doing so was to promote improved access to care and service continuity by creating a more efficient and effective management system of substance abuse and mental health services.⁴ Since 2008, the department has:

- Aligned managing entity contract areas with the Medicaid regions to better integrate the health services networks between the agencies;
- Contract with three managing entities, reducing the number of contracts the department is responsible for in these areas from 172 to three:
 - SunCoast – one contract / \$138 million,
 - Southern – one contract / \$57 million, and
 - Circuit 1 – one contract / \$27 million;
- Released three intent to negotiate (ITNs) to solicit managing entities in the Northeast, Central, and Southeastern regions. The selection and negotiation process was initiated on July 15, 2011, and was anticipated to be complete by December 1, 2011;
- Amended the SunCoast Region contract to cover Polk, Highland, and Hardee counties and align the new procurements by April 1, 2012; and
- Amended the Southern Region contract to align with new procurements by April 1, 2012.⁵

According to a 2011 Senate Interim Report, DCF is still in the process of contracting with behavioral health managing entities to administer and oversee the state's community health and substance abuse services. As of September 2011, three managing entities were operating (Lakeview Center, Central Florida Behavioral Health Network, and South Florida Behavioral Health Network), and the remaining three were scheduled to be operating by July 1, 2012.⁶ When the transition is complete, the department will have six contracts rather than nearly 400 contracts with 137 community mental health and substance abuse providers.⁷

Section 394.9082, Florida Statutes

A managing entity is defined as “a corporation organized in this state, is designated or filed as a nonprofit organization under s. 501(c)3 of the Internal Revenue Service, and is under contract

² *Id.*

³ Comm. on Healthy Families, The Florida House of Representatives, *House of Representatives Staff Analysis, HB 1429* (Mar. 24, 2008), available at <http://archive.flsenate.gov/data/session/2008/House/bills/analysis/pdf/h1429.HF.pdf> (last visited Jan. 14, 2012).

⁴ Chapter 2008-243, s. 1, Laws of Fla.

⁵ Dep't of Children and Families, *Staff Analysis and Economic Impact, SB 7164* (Jan. 16, 2012) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁶ Budget Subcommittee on Health and Human Services Appropriations, The Florida Senate, *Crisis Stabilization Units*, 4-5 (Interim Report 2012-109) (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-109bha.pdf> (last visited Jan. 14, 2012).

⁷ *Id.* at 5.

with the department to manage the day-to-day operational delivery of behavioral health services through an organized system of care.”⁸ This structure places responsibility for management services within a single nonprofit entity at the local level.⁹ Some of the stated benefits associated with this type of management system include structured oversight, efficient and effective use of limited resources, and a comprehensive, continuous, and integrated system of care in a defined geographic region.¹⁰ Furthermore, managing entities can enhance the ability of DCF and its regional and circuit offices to focus on broad systematic substance abuse and mental health system development rather than the current daily operational requirements.¹¹

In addition to providing a design for effective coordination, integration, and management for delivering behavioral health services, additional goals of the service delivery strategies are:

- Improving accountability for a local system of behavioral health care services to meet performance outcomes and standards through the use of reliable and timely data;
- Enhancing the continuity of care for all children, adolescents, and adults who enter the publicly funded behavioral health service system;
- Preserving the “safety net” of publicly funded behavioral health services and providers by establishing locally designed and community-monitored systems of care;
- Providing early diagnosis and treatment interventions to enhance recovery and prevent hospitalization;
- Improving the assessment of local needs for behavioral health services;
- Improving the overall quality of behavioral health services through the use of evidence-based, best practices, and promising practice models;
- Demonstrating improved service integration between behavioral health programs and other programs;
- Providing for additional testing of creative and flexible strategies for financing behavioral health services;
- Promoting cost-effective quality care;
- Working with the state to coordinate admissions and discharges from state civil and forensic hospitals as well as from residential treatment centers;
- Improving the integration, accessibility, and dissemination of behavioral health data;
- Promoting specialized behavioral health services to residents of assisted living facilities;
- Working with the state to reduce the admissions and the length of stay for dependent children in residential treatment centers;
- Providing services to adults and children with co-occurring disorders of mental illnesses and substance abuse problems; and
- Providing services to elder adults in crisis or at-risk for placement in a more restrictive setting due to a serious mental illness or substance abuse.¹²

⁸ Section 394.9082(2)(d), F.S.

⁹ Fla. Dep’t of Children and Families, *Substance Abuse and Mental Health, Managing Entities*, <http://www.dcf.state.fl.us/programs/samb/managingEntities.shtml> (last visited Jan. 14, 2012).

¹⁰ Comm. on Children, Families, and Elder Affairs, The Florida Senate, *Bill Analysis and Fiscal Impact Statement, SB 2002* (Mar. 25, 2010), available at <http://archive.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s2002.cf.pdf> (last visited Jan. 14, 2012).

¹¹ Fla. Dep’t of Children and Families, *supra* note 9.

¹² Section 394.9082(5), F.S.

The statute provides direction to the department regarding its contracts with the managing entities. The operating costs of the managing entity contract is to be funded through funds from DCF and the department is required to negotiate a reasonable and appropriate administrative cost rate with the managing entity.¹³ The statute also spells out specific core functions that DCF can contract with the managing entities to provide.¹⁴

Section 394.9082, F.S., requires governance of managing entities by a community board of directors that includes consumers, community stakeholders and organizations, and providers of mental health and substance abuse services.¹⁵ In a 2011 Senate Interim Report, it was recommended that since managing entities are responsible for contracting with and overseeing mental health and substance abuse providers, representatives of these providers should not be on the board of directors for the managing entity. Specifically, the report stated that “[t]he Legislature should consider amending s. 394.9082(7), Florida Statutes, to require representatives of community mental health providers to be ex-officio members of the managing entity board of directors, rather than be voting members, to avoid the possibility or appearance of conflicts of interest.”¹⁶

III. Effect of Proposed Changes:

This proposed committee bill makes changes relating to behavioral health managing entities by allowing any corporation incorporated or registered in the state – whether for-profit or nonprofit – to be a managing entity. Specifically, the bill amends the definition of “managing entity” to mean “a corporation that is incorporated or registered in this state and that manages the day-to-day operational delivery of behavioral health services through an organized system of care under contract with the department.”

The bill also amends the definition of “provider networks” to remove the requirement that the direct service agencies be under contract with a managing entity. According to the Department of Children and Family Services (DCF or department), other sections of law allow provider networks that aren’t under contract with the managing entity. This change in the bill conforms the language to other statutes.¹⁷

Additionally, the bill prohibits providers of substance abuse and mental health services from being a part of the managing entity’s governance structure. By doing so, the bill addresses concerns raised in a 2011 Senate Interim Report about possible conflicts of interest on the board of directors. Specifically, the report stated that “[s]ince managing entities are responsible for contracting with and overseeing mental health and substance abuse providers in their regions, representatives of these providers should not have a role in the governance of managing entities.”¹⁸

¹³ Section 394.9082(4)(b), F.S.

¹⁴ Section 394.9082(6)(d), F.S.

¹⁵ Section 394.9082(7)(a), F.S.

¹⁶ Budget Subcommittee on Health and Human Services Appropriations, *supra* note 6, at 5.

¹⁷ Conversation with representatives from the Department of Children and Family Services (Nov. 4, 2011).

¹⁸ Budget Subcommittee on Health and Human Services Appropriations, *supra* note 6, at 5.

The bill requires DCF to negotiate a reasonable cost for the entire system of care, rather than just the administrative costs, and it requires DCF to eliminate duplication within the provider network.

The bill requires that a mental health or substance abuse provider currently under contract with DCF be offered a contract by the managing entity for one year. This is current practice in order to maintain as much continuity as possible for consumers, but still let the managing entity make changes if the provider is not working out.¹⁹

The bill amends the statutorily listed core functions that may be provided by a managing entity. Under current law, the listed functions are very specific; however, the specifics of such core functions are generally provided for by contract and therefore do not need to be spelled out in statute.²⁰

The bill provides a due date of June 30, 2013, for certain managing entities to move from their current governance structure to the new structure that prohibits providers of substance abuse and mental health services from being a part of the governance structure.

Finally, the bill provides that the ultimate responsibility of accountability for the expenditure of substance abuse and mental health public funds resides with DCF.

The bill makes additional technical or conforming changes.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁹ Conversation with representatives from the Department of Children and Family Services (Nov. 4, 2011).

²⁰ *Id.*

B. Private Sector Impact:

This proposed committee bill makes changes relating to behavioral health managing entities by allowing any corporation incorporated or registered in the state – whether for-profit or nonprofit – to be a managing entity. By allowing for-profit corporations to become managing entities, the bill “expands and enhances free market competition, thereby achieving cost savings and efficiencies, more effective and accessible system of care and service continuity, and improving procurement and contract management.”²¹

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²¹ Dep’t of Children and Families, *supra* note 5.