

1 A bill to be entitled
2 An act relating to substance abuse services; amending
3 s. 397.311, F.S.; deleting and providing definitions;
4 amending s. 397.4073, F.S.; revising provisions
5 relating to background checks and exemptions from
6 disqualification for certain service provider
7 personnel; requiring the Department of Children and
8 Families to notify an applicant within a certain
9 timeframe regarding the status of the applicant's
10 application for an exemption from disqualification;
11 amending s. 397.487, F.S.; revising legislative
12 findings relating to voluntary certification of
13 recovery residences; requiring recovery residences to
14 comply with specified Florida Fire Prevention Code
15 provisions; revising background screening requirements
16 for owners, directors, and chief financial officers of
17 recovery residences; amending s. 397.4873, F.S.;
18 prohibiting service providers from having certain
19 contractual or referral relationships with recovery
20 residences; providing exceptions; prohibiting recovery
21 residences and specified affiliated individuals from
22 benefitting from certain referrals; providing
23 penalties; amending s. 435.07, F.S.; revising criteria
24 for an exemption from disqualification for an employee
25 providing mental health and substance use treatment

26 services under certain circumstances; amending s.
 27 394.9085, F.S.; conforming a cross-reference;
 28 providing an effective date.

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

32 Section 1. Paragraph (a) of subsection (26) of section
 33 397.311, Florida Statutes, is amended to read:

34 397.311 Definitions.—As used in this chapter, except part
 35 VIII, the term:

36 (26) Licensed service components include a comprehensive
 37 continuum of accessible and quality substance abuse prevention,
 38 intervention, and clinical treatment services, including the
 39 following services:

40 (a) "Clinical treatment" means a professionally directed,
 41 deliberate, and planned regimen of services and interventions
 42 that are designed to reduce or eliminate the misuse of drugs and
 43 alcohol and promote a healthy, drug-free lifestyle. As defined
 44 by rule, "clinical treatment services" include, but are not
 45 limited to, the following licensable service components:

46 1. "Addictions receiving facility" is a secure, acute care
 47 facility that provides, at a minimum, detoxification and
 48 stabilization services; is operated 24 hours per day, 7 days per
 49 week; and is designated by the department to serve individuals
 50 found to be substance use impaired as described in s. 397.675

51 | who meet the placement criteria for this component.

52 | 2. "Day or night treatment" is a service provided in a
53 | nonresidential environment, with a structured schedule of
54 | treatment and rehabilitative services.

55 | ~~3. "Day or night treatment with community housing" means a~~
56 | ~~program intended for individuals who can benefit from living~~
57 | ~~independently in peer community housing while participating in~~
58 | ~~treatment services for a minimum of 5 hours a day for a minimum~~
59 | ~~of 25 hours per week.~~

60 | 3.4. "Detoxification" is a service involving subacute care
61 | that is provided on an inpatient or an outpatient basis to
62 | assist individuals to withdraw from the physiological and
63 | psychological effects of substance abuse and who meet the
64 | placement criteria for this component.

65 | ~~4.5.~~ "Intensive inpatient treatment" includes a planned
66 | regimen of evaluation, observation, medical monitoring, and
67 | clinical protocols delivered through an interdisciplinary team
68 | approach provided 24 hours per day, 7 days per week, in a highly
69 | structured, live-in environment.

70 | ~~5.6.~~ "Intensive outpatient treatment" is a service that
71 | provides individual or group counseling in a more structured
72 | environment, is of higher intensity and duration than outpatient
73 | treatment, and is provided to individuals who meet the placement
74 | criteria for this component.

75 | ~~6.7.~~ "Medication-assisted treatment for opiate addiction"

76 is a service that uses methadone or other medication as
77 authorized by state and federal law, in combination with
78 medical, rehabilitative, and counseling services in the
79 treatment of individuals who are dependent on opioid drugs.

80 ~~7.8.~~ "Outpatient treatment" is a service that provides
81 individual, group, or family counseling by appointment during
82 scheduled operating hours for individuals who meet the placement
83 criteria for this component.

84 ~~8.9.~~ "Residential treatment" is a service provided in a
85 structured live-in environment within a nonhospital setting on a
86 24-hours-per-day, 7-days-per-week basis, and is intended for
87 individuals who meet the placement criteria for this component.

88 9. "Treatment with housing overlay" is a program that
89 provides one or more of the components in subparagraphs 2.-8.
90 for individuals who are living independently in a recovery
91 residence while participating in substance abuse treatment
92 services. A service provider that offers treatment with housing
93 overlay may only do so through a recovery residence that holds a
94 valid certificate of compliance as provided in s. 397.487 and is
95 actively managed by a certified recovery residence administrator
96 as provided in s. 397.4871.

97 Section 2. Paragraphs (f) and (g) of subsection (1) of
98 section 397.4073, Florida Statutes, are amended to read:

99 397.4073 Background checks of service provider personnel.-

100 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND

101 EXCEPTIONS.—

102 (f) Service provider personnel who request an exemption
103 from disqualification must submit the request within 30 days
104 after being notified of the disqualification. The department
105 must notify the applicant within 60 days after receipt of a
106 completed application whether an exemption is granted or denied.

107 (g) If 5 years or more have elapsed since the most recent
108 disqualifying offense, service provider personnel may work with
109 adults with substance use disorders under the supervision of a
110 qualified professional licensed under chapter 490 or chapter 491
111 or a master's-level-certified addictions professional until the
112 agency makes a final determination regarding the request for an
113 exemption from disqualification.

114 (h) ~~(g)~~ The department may not issue a regular license to
115 any service provider that fails to provide proof that background
116 screening information has been submitted in accordance with
117 chapter 435.

118 Section 3. Subsection (1), paragraph (m) of subsection
119 (3), and subsection (6) of section 397.487, Florida Statutes,
120 are amended to read:

121 397.487 Voluntary certification of recovery residences.—

122 (1) The Legislature finds that a person suffering from
123 addiction has a higher success rate of achieving long-lasting
124 sobriety when given the opportunity to build a stronger
125 foundation by living in a recovery residence while receiving

126 treatment or after completing treatment. The Legislature further
127 finds that this state and its subdivisions have a legitimate
128 state interest in protecting these persons, who represent a
129 vulnerable consumer population in need of adequate housing. It
130 is the intent of the Legislature to protect persons who reside
131 in a recovery residence.

132 (3) A credentialing entity shall require the recovery
133 residence to submit the following documents with the completed
134 application and fee:

135 (m) Proof of satisfactory fire, safety, and health
136 inspections. A recovery residence must comply with the
137 provisions of the Florida Fire Prevention Code which apply to
138 one-family and two-family dwellings, public lodging
139 establishments, or rooming houses, or other housing facilities,
140 as applicable.

141 (6) All owners, directors, and chief financial officers of
142 an applicant recovery residence are subject to level 2
143 background screening as provided under chapter 435 and s.
144 408.809. A recovery residence is ineligible for certification,
145 and a credentialing entity shall deny a recovery residence's
146 application, if any owner, director, or chief financial officer
147 has been found guilty of, or has entered a plea of guilty or
148 nolo contendere to, regardless of adjudication, any offense
149 listed in s. 435.04(2) unless the department has issued an
150 exemption under s. 397.4872. In accordance with s. 435.04, the

151 department shall notify the credentialing agency of an owner's,
152 director's, or chief financial officer's eligibility based on
153 the results of his or her background screening.

154 Section 4. Section 397.4873, Florida Statutes, is amended
155 to read:

156 397.4873 Referrals to or from recovery residences;
157 prohibitions; penalties.—

158 (1) A service provider licensed under this part may not:

159 (a) Make a referral of a prospective, current, or
160 discharged patient to, or accept a referral of such a patient
161 from, a recovery residence unless the recovery residence holds a
162 valid certificate of compliance as provided in s. 397.487 and is
163 actively managed by a certified recovery residence administrator
164 as provided in s. 397.4871.

165 (b) Have a contractual or referral relationship with a
166 recovery residence to provide treatment with housing overlay
167 pursuant to s. 397.311(26) unless the recovery residence holds a
168 valid certificate of compliance as provided in s. 397.487 and is
169 actively managed by a certified recovery residence administrator
170 as provided in s. 397.4871.

171 (2) Subsection (1) does not apply to:

172 (a) A licensed service provider under contract with a
173 managing entity as defined in s. 394.9082.

174 (b) Referrals by a recovery residence to a licensed
175 service provider when a resident has experienced a recurrence of

176 substance use and, in the best judgment of the recovery
177 residence administrator, it appears that the resident may
178 benefit from clinical treatment services ~~the recovery residence~~
179 ~~or its owners, directors, operators, or employees do not~~
180 ~~benefit, directly or indirectly, from the referral.~~

181 (c) Referrals made before July 1, 2018, by a licensed
182 service provider to that licensed service provider's wholly
183 owned subsidiary.

184 (3) A recovery residence or its owners, directors,
185 operators, employees, or volunteers may not benefit, directly or
186 indirectly, from a referral made pursuant to subsection (1) or
187 subsection (2).

188 (4)~~(3)~~ For purposes of this section, a licensed service
189 provider or recovery residence shall be considered to have made
190 a referral if the provider or recovery residence has informed a
191 patient by any means about the name, address, or other details
192 of a recovery residence or licensed service provider, or
193 informed a licensed service provider or a recovery residence of
194 any identifying details about a patient.

195 (5)~~(4)~~ A licensed service provider shall maintain records
196 of referrals to or from recovery residences as may be prescribed
197 by the department in rule.

198 (6)~~(5)~~ After June 30, 2019, a licensed service provider
199 violating this section shall be subject to an administrative
200 fine of \$1,000 per occurrence. Repeat violations of this section

201 may subject a provider to license suspension or revocation
202 pursuant to s. 397.415.

203 ~~(7)(6)~~ Nothing in this section requires a licensed service
204 provider to refer a patient to or to accept a referral of a
205 patient from a recovery residence.

206 Section 5. Subsections (2) through (5) of section 435.07,
207 Florida Statutes, are renumbered as subsections (3) through (6),
208 respectively, and a new subsection (2) is added to that section
209 to read:

210 435.07 Exemptions from disqualification.—Unless otherwise
211 provided by law, the provisions of this section apply to
212 exemptions from disqualification for disqualifying offenses
213 revealed pursuant to background screenings required under this
214 chapter, regardless of whether those disqualifying offenses are
215 listed in this chapter or other laws.

216 (2) The head of the appropriate agency may grant an
217 exemption from disqualification which is limited solely to
218 employment related to providing mental health and substance
219 abuse treatment under chapter 394 or chapter 397 to an employee
220 otherwise disqualified from employment under subsection (1).

221 Section 6. Subsection (6) of section 394.9085, Florida
222 Statutes, is amended to read:

223 394.9085 Behavioral provider liability.—

224 (6) For purposes of this section, the terms
225 "detoxification services," "addictions receiving facility," and

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226 "receiving facility" have the same meanings as those provided in
227 ss. 397.311(26)(a)3. ~~397.311(26)(a)4.~~, 397.311(26)(a)1., and
228 394.455(39), respectively.

229 Section 7. This act shall take effect July 1, 2018.