

1 A bill to be entitled
2 An act relating to substance abuse services; amending
3 s. 394.4572, F.S.; authorizing the Department of
4 Health and the Agency for Health Care Administration
5 to grant exemptions from disqualification for service
6 provider personnel to work solely in certain treatment
7 programs and facilities; amending s. 397.311, F.S.;
8 defining the term "peer specialist"; amending s.
9 397.4073, F.S.; revising provisions relating to
10 background checks and exemptions from disqualification
11 for certain service provider personnel; requiring the
12 Department of Children and Families to grant or deny
13 an exemption from disqualification within a certain
14 timeframe; authorizing an applicant for an exemption
15 to work under the supervision of certain persons for a
16 specified period of time while his or her application
17 is pending; authorizing certain persons to be exempted
18 from disqualification from employment; authorizing the
19 department to grant exemptions from disqualification
20 for service provider personnel to work solely in
21 certain treatment programs and facilities; amending s.
22 397.487, F.S.; revising legislative findings relating
23 to voluntary certification of recovery residences;
24 requiring recovery residences to comply with specified
25 Florida Fire Prevention Code provisions; revising

26 background screening requirements for owners,
 27 directors, and chief financial officers of recovery
 28 residences; amending s. 397.4873, F.S.; providing
 29 exceptions to limitations on referrals by recovery
 30 residences to licensed service providers; prohibiting
 31 recovery residences and specified affiliated
 32 individuals from benefitting from certain referrals;
 33 providing penalties; amending s. 435.07, F.S.;
 34 authorizing certain persons to be exempted from
 35 disqualification from employment; amending ss.
 36 212.055, 397.416, and 440.102, F.S.; conforming cross-
 37 references; providing an effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Subsection (2) of section 394.4572, Florida
 42 Statutes, is amended to read:

43 394.4572 Screening of mental health personnel.—

44 (2) (a) The department or the Agency for Health Care
 45 Administration may grant exemptions from disqualification as
 46 provided in chapter 435.

47 (b) The department or the Agency for Health Care
 48 Administration, as applicable, may grant exemptions from
 49 disqualification for service provider personnel to work solely
 50 in mental health treatment programs or facilities or in programs

51 or facilities that treat co-occurring substance use and mental
52 health disorders.

53 Section 2. Subsections (30) through (49) of section
54 397.311, Florida Statutes, are renumbered as subsections (31)
55 through (50), respectively, and a new subsection (30) is added
56 to that section to read:

57 397.311 Definitions.—As used in this chapter, except part
58 VIII, the term:

59 (30) "Peer specialist" means a person who has been in
60 recovery from a substance use disorder or mental illness for at
61 least 2 years who uses his or her personal experience to deliver
62 services in behavioral health settings to support others in
63 their recovery, or a person who has experience as a family
64 member or a caregiver of a person with a substance use disorder
65 or mental illness. The term does not include a person who is a
66 qualified professional or otherwise certified under chapter 394
67 or 397.

68 Section 3. Paragraphs (a), (f), and (g) of subsection (1)
69 and subsection (4) of section 397.4073, Florida Statutes, are
70 amended to read:

71 397.4073 Background checks of service provider personnel.—

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

74 (a) For all individuals screened on or after July 1, 2018,
75 background checks shall apply as follows:

76 1. All owners, directors, chief financial officers, and
77 clinical supervisors of service providers are subject to level 2
78 background screening as provided under chapter 435. Such
79 screening shall also include background screening as provided in
80 s. 408.809. Inmate substance abuse programs operated directly or
81 under contract with the Department of Corrections are exempt
82 from this requirement.

83 2. All service provider personnel who have direct contact
84 with children receiving services or with adults who are
85 developmentally disabled receiving services are subject to level
86 2 background screening as provided under chapter 435. Such
87 screening shall also include background screening as provided in
88 s. 408.809.

89 3. All peer specialists who have direct contact with
90 individuals receiving services are subject to level 2 background
91 screening as provided under chapter 435. Such screening shall
92 also include background screening as provided in s. 408.809.

93 (f) Service provider personnel who request an exemption
94 from disqualification must submit the request within 30 days
95 after being notified of the disqualification. The department
96 shall grant or deny the exemption from disqualification within
97 60 days after receipt of a complete application.

98 (g) If 5 years or more have elapsed since the applicant
99 for the exemption completed or was lawfully released from
100 confinement, supervision, or nonmonetary condition imposed by

101 the court for the most recent disqualifying offense, such
 102 applicant ~~service provider personnel~~ may work with adults with
 103 substance use disorders under the supervision of persons who
 104 meet all personnel requirements of this chapter for up to 90
 105 days after being notified of the disqualification or until the
 106 department ~~a qualified professional licensed under chapter 490~~
 107 ~~or chapter 491 or a master's level certified addictions~~
 108 ~~professional until the agency makes a final determination~~
 109 regarding the request for an exemption from disqualification,
 110 whichever is earlier.

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

115 (4) EXEMPTIONS FROM DISQUALIFICATION.—

116 (a) The department may grant to any service provider
 117 personnel an exemption from disqualification as provided in s.
 118 435.07.

119 (b) Since rehabilitated substance abuse impaired persons
 120 are effective in the successful treatment and rehabilitation of
 121 individuals with substance use disorders, for service providers
 122 which treat adolescents 13 years of age and older, service
 123 provider personnel whose background checks indicate crimes under
 124 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
 125 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s. 893.147, and

126 any related criminal attempt, solicitation, or conspiracy under
127 s. 777.04, may be exempted from disqualification from employment
128 pursuant to this paragraph.

129 (c) The department may grant exemptions from
130 disqualification for service provider personnel to work solely
131 in substance abuse treatment programs or facilities or in
132 programs or facilities that treat co-occurring substance use and
133 mental health disorders. The department may further limit such
134 ~~grant exemptions from disqualification which would limit service~~
135 ~~provider personnel~~ to working with adults in substance abuse
136 treatment facilities.

137 Section 4. Subsection (1), paragraph (m) of subsection
138 (3), and subsection (6) of section 397.487, Florida Statutes,
139 are amended to read:

140 397.487 Voluntary certification of recovery residences.—

141 (1) The Legislature finds that a person suffering from
142 addiction has a higher success rate of achieving long-lasting
143 sobriety when given the opportunity to build a stronger
144 foundation by living in a recovery residence while receiving
145 treatment or after completing treatment. The Legislature further
146 finds that this state and its subdivisions have a legitimate
147 state interest in protecting these persons, who represent a
148 vulnerable consumer population in need of adequate housing. It
149 is the intent of the Legislature to protect persons who reside
150 in a recovery residence.

151 (3) A credentialing entity shall require the recovery
152 residence to submit the following documents with the completed
153 application and fee:

154 (m) Proof of satisfactory fire, safety, and health
155 inspections. A recovery residence must comply with the
156 provisions of the Florida Fire Prevention Code which apply to
157 one-family and two-family dwellings, public lodging
158 establishments, or rooming houses, or other housing facilities,
159 as applicable.

160 (6) All owners, directors, and chief financial officers of
161 an applicant recovery residence are subject to level 2
162 background screening as provided under chapter 435 and s.
163 408.809. A recovery residence is ineligible for certification,
164 and a credentialing entity shall deny a recovery residence's
165 application, if any owner, director, or chief financial officer
166 has been found guilty of, or has entered a plea of guilty or
167 nolo contendere to, regardless of adjudication, any offense
168 listed in s. 408.809(4) or s. 435.04(2) unless the department
169 has issued an exemption under s. 397.4073 or s. 397.4872. In
170 accordance with s. 435.04, the department shall notify the
171 credentialing agency of an owner's, director's, or chief
172 financial officer's eligibility based on the results of his or
173 her background screening.

174 Section 5. Section 397.4873, Florida Statutes, is amended
175 to read:

176 397.4873 Referrals to or from recovery residences;
177 prohibitions; penalties.—

178 (1) A service provider licensed under this part may not
179 make a referral of a prospective, current, or discharged patient
180 to, or accept a referral of such a patient from, a recovery
181 residence unless the recovery residence holds a valid
182 certificate of compliance as provided in s. 397.487 and is
183 actively managed by a certified recovery residence administrator
184 as provided in s. 397.4871.

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

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

188 (b) Referrals by a recovery residence to a licensed
189 service provider when a resident has experienced a recurrence of
190 substance use and, in the best judgment of the recovery
191 residence administrator, it appears that the resident may
192 benefit from clinical treatment services ~~the recovery residence~~
193 ~~or its owners, directors, operators, or employees do not~~
194 ~~benefit, directly or indirectly, from the referral.~~

195 (c) Referrals made before July 1, 2018, by a licensed
196 service provider to that licensed service provider's wholly
197 owned subsidiary.

198 (3) A recovery residence or its owners, directors,
199 operators, employees, or volunteers may not benefit, directly or
200 indirectly, from a referral made pursuant to subsection (1) or

201 subsection (2).

202 (4)~~(3)~~ For purposes of this section, a licensed service
203 provider or recovery residence shall be considered to have made
204 a referral if the provider or recovery residence has informed a
205 patient by any means about the name, address, or other details
206 of a recovery residence or licensed service provider, or
207 informed a licensed service provider or a recovery residence of
208 any identifying details about a patient.

209 (5)~~(4)~~ A licensed service provider shall maintain records
210 of referrals to or from recovery residences as may be prescribed
211 by the department in rule.

212 (6)~~(5)~~ After June 30, 2019, a licensed service provider
213 violating this section shall be subject to an administrative
214 fine of \$1,000 per occurrence. Repeat violations of this section
215 may subject a provider to license suspension or revocation
216 pursuant to s. 397.415.

217 (7)~~(6)~~ Nothing in this section requires a licensed service
218 provider to refer a patient to or to accept a referral of a
219 patient from a recovery residence.

220 Section 6. Subsection (2) of section 435.07, Florida
221 Statutes, is amended to read:

222 435.07 Exemptions from disqualification.—Unless otherwise
223 provided by law, the provisions of this section apply to
224 exemptions from disqualification for disqualifying offenses
225 revealed pursuant to background screenings required under this

226 chapter, regardless of whether those disqualifying offenses are
227 listed in this chapter or other laws.

228 (2) Persons employed, or applicants for employment, by
229 treatment providers who treat adolescents 13 years of age and
230 older who are disqualified from employment solely because of
231 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
232 817.563, s. 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s.
233 893.147, and any related criminal attempt, solicitation, or
234 conspiracy under s. 777.04, may be exempted from
235 disqualification from employment pursuant to this chapter
236 without application of the waiting period in subparagraph
237 (1)(a)1.

238 Section 7. Paragraph (e) of subsection (5) of section
239 212.055, Florida Statutes, is amended to read:

240 212.055 Discretionary sales surtaxes; legislative intent;
241 authorization and use of proceeds.—It is the legislative intent
242 that any authorization for imposition of a discretionary sales
243 surtax shall be published in the Florida Statutes as a
244 subsection of this section, irrespective of the duration of the
245 levy. Each enactment shall specify the types of counties
246 authorized to levy; the rate or rates which may be imposed; the
247 maximum length of time the surtax may be imposed, if any; the
248 procedure which must be followed to secure voter approval, if
249 required; the purpose for which the proceeds may be expended;
250 and such other requirements as the Legislature may provide.

251 Taxable transactions and administrative procedures shall be as
252 provided in s. 212.054.

253 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined
254 in s. 125.011(1) may levy the surtax authorized in this
255 subsection pursuant to an ordinance either approved by
256 extraordinary vote of the county commission or conditioned to
257 take effect only upon approval by a majority vote of the
258 electors of the county voting in a referendum. In a county as
259 defined in s. 125.011(1), for the purposes of this subsection,
260 "county public general hospital" means a general hospital as
261 defined in s. 395.002 which is owned, operated, maintained, or
262 governed by the county or its agency, authority, or public
263 health trust.

264 (e) A governing board, agency, or authority shall be
265 chartered by the county commission upon this act becoming law.
266 The governing board, agency, or authority shall adopt and
267 implement a health care plan for indigent health care services.
268 The governing board, agency, or authority shall consist of no
269 more than seven and no fewer than five members appointed by the
270 county commission. The members of the governing board, agency,
271 or authority shall be at least 18 years of age and residents of
272 the county. No member may be employed by or affiliated with a
273 health care provider or the public health trust, agency, or
274 authority responsible for the county public general hospital.
275 The following community organizations shall each appoint a

276 representative to a nominating committee: the South Florida
277 Hospital and Healthcare Association, the Miami-Dade County
278 Public Health Trust, the Dade County Medical Association, the
279 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
280 County. This committee shall nominate between 10 and 14 county
281 citizens for the governing board, agency, or authority. The
282 slate shall be presented to the county commission and the county
283 commission shall confirm the top five to seven nominees,
284 depending on the size of the governing board. Until such time as
285 the governing board, agency, or authority is created, the funds
286 provided for in subparagraph (d)2. shall be placed in a
287 restricted account set aside from other county funds and not
288 disbursed by the county for any other purpose.

289 1. The plan shall divide the county into a minimum of four
290 and maximum of six service areas, with no more than one
291 participant hospital per service area. The county public general
292 hospital shall be designated as the provider for one of the
293 service areas. Services shall be provided through participants'
294 primary acute care facilities.

295 2. The plan and subsequent amendments to it shall fund a
296 defined range of health care services for both indigent persons
297 and the medically poor, including primary care, preventive care,
298 hospital emergency room care, and hospital care necessary to
299 stabilize the patient. For the purposes of this section,
300 "stabilization" means stabilization as defined in s. 397.311(46)

301 ~~s. 397.311(45)~~. Where consistent with these objectives, the plan
302 may include services rendered by physicians, clinics, community
303 hospitals, and alternative delivery sites, as well as at least
304 one regional referral hospital per service area. The plan shall
305 provide that agreements negotiated between the governing board,
306 agency, or authority and providers shall recognize hospitals
307 that render a disproportionate share of indigent care, provide
308 other incentives to promote the delivery of charity care to draw
309 down federal funds where appropriate, and require cost
310 containment, including, but not limited to, case management.
311 From the funds specified in subparagraphs (d)1. and 2. for
312 indigent health care services, service providers shall receive
313 reimbursement at a Medicaid rate to be determined by the
314 governing board, agency, or authority created pursuant to this
315 paragraph for the initial emergency room visit, and a per-member
316 per-month fee or capitation for those members enrolled in their
317 service area, as compensation for the services rendered
318 following the initial emergency visit. Except for provisions of
319 emergency services, upon determination of eligibility,
320 enrollment shall be deemed to have occurred at the time services
321 were rendered. The provisions for specific reimbursement of
322 emergency services shall be repealed on July 1, 2001, unless
323 otherwise reenacted by the Legislature. The capitation amount or
324 rate shall be determined before program implementation by an
325 independent actuarial consultant. In no event shall such

326 reimbursement rates exceed the Medicaid rate. The plan must also
327 provide that any hospitals owned and operated by government
328 entities on or after the effective date of this act must, as a
329 condition of receiving funds under this subsection, afford
330 public access equal to that provided under s. 286.011 as to any
331 meeting of the governing board, agency, or authority the subject
332 of which is budgeting resources for the retention of charity
333 care, as that term is defined in the rules of the Agency for
334 Health Care Administration. The plan shall also include
335 innovative health care programs that provide cost-effective
336 alternatives to traditional methods of service and delivery
337 funding.

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

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

346 5. At the end of each fiscal year, the governing board,
347 agency, or authority shall prepare an audit that reviews the
348 budget of the plan, delivery of services, and quality of
349 services, and makes recommendations to increase the plan's
350 efficiency. The audit shall take into account participant

351 hospital satisfaction with the plan and assess the amount of
 352 poststabilization patient transfers requested, and accepted or
 353 denied, by the county public general hospital.

354 Section 8. Section 397.416, Florida Statutes, is amended
 355 to read:

356 397.416 Substance abuse treatment services; qualified
 357 professional.—Notwithstanding any other provision of law, a
 358 person who was certified through a certification process
 359 recognized by the former Department of Health and Rehabilitative
 360 Services before January 1, 1995, may perform the duties of a
 361 qualified professional with respect to substance abuse treatment
 362 services as defined in this chapter, and need not meet the
 363 certification requirements contained in s. 397.311(35) ~~s.~~
 364 ~~397.311(34)~~.

365 Section 9. Paragraphs (d) and (g) of subsection (1) of
 366 section 440.102, Florida Statutes, are amended to read:

367 440.102 Drug-free workplace program requirements.—The
 368 following provisions apply to a drug-free workplace program
 369 implemented pursuant to law or to rules adopted by the Agency
 370 for Health Care Administration:

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

373 (d) "Drug rehabilitation program" means a service
 374 provider, established pursuant to s. 397.311(44) ~~s. 397.311(43)~~,
 375 that provides confidential, timely, and expert identification,

376 assessment, and resolution of employee drug abuse.

377 (g) "Employee assistance program" means an established
378 program capable of providing expert assessment of employee
379 personal concerns; confidential and timely identification
380 services with regard to employee drug abuse; referrals of
381 employees for appropriate diagnosis, treatment, and assistance;
382 and followup services for employees who participate in the
383 program or require monitoring after returning to work. If, in
384 addition to the above activities, an employee assistance program
385 provides diagnostic and treatment services, these services shall
386 in all cases be provided by service providers pursuant to s.
387 397.311(44) ~~s. 397.311(43)~~.

388 Section 10. This act shall take effect July 1, 2018.