

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; creating s.
22 397.417, F.S.; providing qualifications for
23 certification as a peer specialist; requiring the
24 department to develop and implement a training program
25 for individuals seeking certification as peer

26 | specialists; authorizing the department to designate
27 | certain credentialing entities to certify peer
28 | specialists; providing requirements for individuals
29 | providing certain recovery support services as peer
30 | specialists; amending s. 397.487, F.S.; revising
31 | legislative findings relating to voluntary
32 | certification of recovery residences; requiring
33 | recovery residences to comply with specified Florida
34 | Fire Prevention Code provisions; revising background
35 | screening requirements for owners, directors, and
36 | chief financial officers of recovery residences;
37 | amending s. 397.4873, F.S.; providing exceptions to
38 | limitations on referrals by recovery residences to
39 | licensed service providers; prohibiting recovery
40 | residences and specified affiliated individuals from
41 | receiving pecuniary benefits from licensed service
42 | providers for certain referrals; providing penalties;
43 | amending s. 435.07, F.S.; authorizing certain persons
44 | to be exempted from disqualification from employment;
45 | amending ss. 212.055, 397.416, and 440.102, F.S.;
46 | conforming cross-references; providing an effective
47 | date.

48 |
49 | Be It Enacted by the Legislature of the State of Florida:
50 |

51 Section 1. Subsection (2) of section 394.4572, Florida
52 Statutes, is amended to read:

53 394.4572 Screening of mental health personnel.—

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

57 (b) The department or the Agency for Health Care
58 Administration, as applicable, may grant exemptions from
59 disqualification for service provider personnel to work solely
60 in mental health treatment programs or facilities or in programs
61 or facilities that treat co-occurring substance use and mental
62 health disorders.

63 Section 2. Subsections (30) through (49) of section
64 397.311, Florida Statutes, are renumbered as subsections (31)
65 through (50), respectively, and a new subsection (30) is added
66 to that section to read:

67 397.311 Definitions.—As used in this chapter, except part
68 VIII, the term:

69 (30) "Peer specialist" means a person who has been in
70 recovery from a substance use disorder or mental illness for at
71 least 2 years who uses his or her personal experience to deliver
72 services in behavioral health settings to support others in
73 their recovery, or a person who has experience as a family
74 member or a caregiver of a person with a substance use disorder
75 or mental illness. The term does not include a person who is a

76 qualified professional or otherwise certified under chapter 394
77 or 397.

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

81 397.4073 Background checks of service provider personnel.—

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

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

86 1. All owners, directors, chief financial officers, and
87 clinical supervisors of service providers are subject to level 2
88 background screening as provided under chapter 435. Such
89 screening shall also include background screening as provided in
90 s. 408.809. Inmate substance abuse programs operated directly or
91 under contract with the Department of Corrections are exempt
92 from this requirement.

93 2. All service provider personnel who have direct contact
94 with children receiving services or with adults who are
95 developmentally disabled receiving services are subject to level
96 2 background screening as provided under chapter 435. Such
97 screening shall also include background screening as provided in
98 s. 408.809.

99 3. All peer specialists who have direct contact with
100 individuals receiving services are subject to level 2 background

101 screening as provided under chapter 435. Such screening shall
102 also include background screening as provided in s. 408.809.

103 (f) Service provider personnel who request an exemption
104 from disqualification must submit the request within 30 days
105 after being notified of the disqualification. The department
106 shall grant or deny the exemption from disqualification within
107 60 days after receipt of a complete application.

108 (g) If 5 years or more have elapsed since the applicant
109 for the exemption completed or was lawfully released from
110 confinement, supervision, or nonmonetary condition imposed by
111 the court for the most recent disqualifying offense, such
112 applicant service provider personnel may work with adults with
113 substance use disorders under the supervision of persons who
114 meet all personnel requirements of this chapter for up to 90
115 days after being notified of the disqualification or until the
116 department a qualified professional licensed under chapter 490
117 or chapter 491 or a master's-level-certified addictions
118 professional until the agency makes a final determination
119 regarding the request for an exemption from disqualification,
120 whichever is earlier.

121 (h)-(g) The department may not issue a regular license to
122 any service provider that fails to provide proof that background
123 screening information has been submitted in accordance with
124 chapter 435.

125 (4) EXEMPTIONS FROM DISQUALIFICATION.—

126 (a) The department may grant to any service provider
127 personnel an exemption from disqualification as provided in s.
128 435.07.

129 (b) Since rehabilitated substance abuse impaired persons
130 are effective in the successful treatment and rehabilitation of
131 individuals with substance use disorders, for service providers
132 which treat adolescents 13 years of age and older, service
133 provider personnel whose background checks indicate crimes under
134 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
135 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related
136 criminal attempt, solicitation, or conspiracy under s. 777.04,
137 may be exempted from disqualification from employment pursuant
138 to this paragraph.

139 (c) The department may grant exemptions from
140 disqualification for service provider personnel to work solely
141 in substance abuse treatment programs or facilities or in
142 programs or facilities that treat co-occurring substance use and
143 mental health disorders. The department may further limit such
144 ~~grant exemptions from disqualification which would limit service~~
145 ~~provider personnel~~ to working with adults in substance abuse
146 treatment facilities.

147 Section 4. Section 397.417, Florida Statutes, is created
148 to read:

149 397.417 Behavioral health peer specialists.—

150 (1) An individual is eligible for certification as a peer

151 specialist if he or she has been in recovery from a substance
152 use disorder or mental illness for at least 2 years or if he or
153 she has experience as a family member or caregiver of a person
154 with a substance use disorder or mental illness.

155 (2) The department shall develop and implement a training
156 program for individuals seeking certification as peer
157 specialists. The department may designate one or more
158 credentialing entities that have met nationally recognized
159 standards for developing and administering professional
160 certification programs to certify peer specialists.

161 (3) An individual providing department-funded recovery
162 support services as a peer specialist shall be certified
163 pursuant to subsection (2). However, an individual who is not
164 certified may provide recovery support services as a peer
165 specialist for up to 1 year if he or she is working toward
166 certification and is supervised by a qualified professional or
167 by a certified peer specialist with supervisory training who has
168 at least 3 years of full-time experience as a peer specialist at
169 a licensed behavioral health organization.

170 Section 5. Subsection (1), paragraph (m) of subsection
171 (3), and subsection (6) of section 397.487, Florida Statutes,
172 are amended to read:

173 397.487 Voluntary certification of recovery residences.—

174 (1) The Legislature finds that a person suffering from
175 addiction has a higher success rate of achieving long-lasting

176 sobriety when given the opportunity to build a stronger
177 foundation by living in a recovery residence while receiving
178 treatment or after completing treatment. The Legislature further
179 finds that this state and its subdivisions have a legitimate
180 state interest in protecting these persons, who represent a
181 vulnerable consumer population in need of adequate housing. It
182 is the intent of the Legislature to protect persons who reside
183 in a recovery residence.

184 (3) A credentialing entity shall require the recovery
185 residence to submit the following documents with the completed
186 application and fee:

187 (m) Proof of satisfactory fire, safety, and health
188 inspections. A recovery residence must comply with the
189 provisions of the Florida Fire Prevention Code which apply to
190 one-family and two-family dwellings, public lodging
191 establishments, or rooming houses, or other housing facilities,
192 as applicable.

193 (6) All owners, directors, and chief financial officers of
194 an applicant recovery residence are subject to level 2
195 background screening as provided under chapter 435 and s.
196 408.809. A recovery residence is ineligible for certification,
197 and a credentialing entity shall deny a recovery residence's
198 application, if any owner, director, or chief financial officer
199 has been found guilty of, or has entered a plea of guilty or
200 nolo contendere to, regardless of adjudication, any offense

201 listed in s. 408.809(4) or s. 435.04(2) unless the department
 202 has issued an exemption under s. 397.4073 or s. 397.4872. In
 203 accordance with s. 435.04, the department shall notify the
 204 credentialing agency of an owner's, director's, or chief
 205 financial officer's eligibility based on the results of his or
 206 her background screening.

207 Section 6. Section 397.4873, Florida Statutes, is amended
 208 to read:

209 397.4873 Referrals to or from recovery residences;
 210 prohibitions; penalties.—

211 (1) A service provider licensed under this part may not
 212 make a referral of a prospective, current, or discharged patient
 213 to, or accept a referral of such a patient from, a recovery
 214 residence unless the recovery residence holds a valid
 215 certificate of compliance as provided in s. 397.487 and is
 216 actively managed by a certified recovery residence administrator
 217 as provided in s. 397.4871.

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

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

221 (b) Referrals by a recovery residence to a licensed
 222 service provider when a resident has experienced a recurrence of
 223 substance use and, in the best judgment of the recovery
 224 residence administrator, it appears that the resident may
 225 benefit from clinical treatment services ~~the recovery residence~~

226 | ~~or its owners, directors, operators, or employees do not~~
227 | ~~benefit, directly or indirectly, from the referral.~~

228 | (c) Referrals made before July 1, 2018, by a licensed
229 | service provider to that licensed service provider's wholly
230 | owned subsidiary.

231 | (3) A recovery residence or its owners, directors,
232 | operators, employees, or volunteers may not receive a pecuniary
233 | benefit, directly or indirectly, from a licensed service
234 | provider for a referral made pursuant to subsection (1) or
235 | subsection (2).

236 | (4)~~(3)~~ For purposes of this section, a licensed service
237 | provider or recovery residence shall be considered to have made
238 | a referral if the provider or recovery residence has informed a
239 | patient by any means about the name, address, or other details
240 | of a recovery residence or licensed service provider, or
241 | informed a licensed service provider or a recovery residence of
242 | any identifying details about a patient.

243 | (5)~~(4)~~ A licensed service provider shall maintain records
244 | of referrals to or from recovery residences as may be prescribed
245 | by the department in rule.

246 | (6)~~(5)~~ After June 30, 2019, a licensed service provider
247 | violating this section shall be subject to an administrative
248 | fine of \$1,000 per occurrence. Repeat violations of this section
249 | may subject a provider to license suspension or revocation
250 | pursuant to s. 397.415.

251 ~~(7)(6)~~ Nothing in this section requires a licensed service
 252 provider to refer a patient to or to accept a referral of a
 253 patient from a recovery residence.

254 Section 7. Subsection (2) of section 435.07, Florida
 255 Statutes, is amended to read:

256 435.07 Exemptions from disqualification.—Unless otherwise
 257 provided by law, the provisions of this section apply to
 258 exemptions from disqualification for disqualifying offenses
 259 revealed pursuant to background screenings required under this
 260 chapter, regardless of whether those disqualifying offenses are
 261 listed in this chapter or other laws.

262 (2) Persons employed, or applicants for employment, by
 263 treatment providers who treat adolescents 13 years of age and
 264 older who are disqualified from employment solely because of
 265 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
 266 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any
 267 related criminal attempt, solicitation, or conspiracy under s.
 268 777.04, may be exempted from disqualification from employment
 269 pursuant to this chapter without application of the waiting
 270 period in subparagraph (1)(a)1.

271 Section 8. Paragraph (e) of subsection (5) of section
 272 212.055, Florida Statutes, is amended to read:

273 212.055 Discretionary sales surtaxes; legislative intent;
 274 authorization and use of proceeds.—It is the legislative intent
 275 that any authorization for imposition of a discretionary sales

276 | surtax shall be published in the Florida Statutes as a
277 | subsection of this section, irrespective of the duration of the
278 | levy. Each enactment shall specify the types of counties
279 | authorized to levy; the rate or rates which may be imposed; the
280 | maximum length of time the surtax may be imposed, if any; the
281 | procedure which must be followed to secure voter approval, if
282 | required; the purpose for which the proceeds may be expended;
283 | and such other requirements as the Legislature may provide.
284 | Taxable transactions and administrative procedures shall be as
285 | provided in s. 212.054.

286 | (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined
287 | in s. 125.011(1) may levy the surtax authorized in this
288 | subsection pursuant to an ordinance either approved by
289 | extraordinary vote of the county commission or conditioned to
290 | take effect only upon approval by a majority vote of the
291 | electors of the county voting in a referendum. In a county as
292 | defined in s. 125.011(1), for the purposes of this subsection,
293 | "county public general hospital" means a general hospital as
294 | defined in s. 395.002 which is owned, operated, maintained, or
295 | governed by the county or its agency, authority, or public
296 | health trust.

297 | (e) A governing board, agency, or authority shall be
298 | chartered by the county commission upon this act becoming law.
299 | The governing board, agency, or authority shall adopt and
300 | implement a health care plan for indigent health care services.

301 The governing board, agency, or authority shall consist of no
302 more than seven and no fewer than five members appointed by the
303 county commission. The members of the governing board, agency,
304 or authority shall be at least 18 years of age and residents of
305 the county. No member may be employed by or affiliated with a
306 health care provider or the public health trust, agency, or
307 authority responsible for the county public general hospital.
308 The following community organizations shall each appoint a
309 representative to a nominating committee: the South Florida
310 Hospital and Healthcare Association, the Miami-Dade County
311 Public Health Trust, the Dade County Medical Association, the
312 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
313 County. This committee shall nominate between 10 and 14 county
314 citizens for the governing board, agency, or authority. The
315 slate shall be presented to the county commission and the county
316 commission shall confirm the top five to seven nominees,
317 depending on the size of the governing board. Until such time as
318 the governing board, agency, or authority is created, the funds
319 provided for in subparagraph (d)2. shall be placed in a
320 restricted account set aside from other county funds and not
321 disbursed by the county for any other purpose.

322 1. The plan shall divide the county into a minimum of four
323 and maximum of six service areas, with no more than one
324 participant hospital per service area. The county public general
325 hospital shall be designated as the provider for one of the

326 service areas. Services shall be provided through participants'
327 primary acute care facilities.

328 2. The plan and subsequent amendments to it shall fund a
329 defined range of health care services for both indigent persons
330 and the medically poor, including primary care, preventive care,
331 hospital emergency room care, and hospital care necessary to
332 stabilize the patient. For the purposes of this section,
333 "stabilization" means stabilization as defined in s. 397.311(46)
334 ~~s. 397.311(45)~~. Where consistent with these objectives, the plan
335 may include services rendered by physicians, clinics, community
336 hospitals, and alternative delivery sites, as well as at least
337 one regional referral hospital per service area. The plan shall
338 provide that agreements negotiated between the governing board,
339 agency, or authority and providers shall recognize hospitals
340 that render a disproportionate share of indigent care, provide
341 other incentives to promote the delivery of charity care to draw
342 down federal funds where appropriate, and require cost
343 containment, including, but not limited to, case management.
344 From the funds specified in subparagraphs (d)1. and 2. for
345 indigent health care services, service providers shall receive
346 reimbursement at a Medicaid rate to be determined by the
347 governing board, agency, or authority created pursuant to this
348 paragraph for the initial emergency room visit, and a per-member
349 per-month fee or capitation for those members enrolled in their
350 service area, as compensation for the services rendered

351 following the initial emergency visit. Except for provisions of
352 emergency services, upon determination of eligibility,
353 enrollment shall be deemed to have occurred at the time services
354 were rendered. The provisions for specific reimbursement of
355 emergency services shall be repealed on July 1, 2001, unless
356 otherwise reenacted by the Legislature. The capitation amount or
357 rate shall be determined before program implementation by an
358 independent actuarial consultant. In no event shall such
359 reimbursement rates exceed the Medicaid rate. The plan must also
360 provide that any hospitals owned and operated by government
361 entities on or after the effective date of this act must, as a
362 condition of receiving funds under this subsection, afford
363 public access equal to that provided under s. 286.011 as to any
364 meeting of the governing board, agency, or authority the subject
365 of which is budgeting resources for the retention of charity
366 care, as that term is defined in the rules of the Agency for
367 Health Care Administration. The plan shall also include
368 innovative health care programs that provide cost-effective
369 alternatives to traditional methods of service and delivery
370 funding.

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

375 4. Eligible residents who participate in the health care

376 | plan shall receive coverage for a period of 12 months or the
 377 | period extending from the time of enrollment to the end of the
 378 | current fiscal year, per enrollment period, whichever is less.

379 | 5. At the end of each fiscal year, the governing board,
 380 | agency, or authority shall prepare an audit that reviews the
 381 | budget of the plan, delivery of services, and quality of
 382 | services, and makes recommendations to increase the plan's
 383 | efficiency. The audit shall take into account participant
 384 | hospital satisfaction with the plan and assess the amount of
 385 | poststabilization patient transfers requested, and accepted or
 386 | denied, by the county public general hospital.

387 | Section 9. Section 397.416, Florida Statutes, is amended
 388 | to read:

389 | 397.416 Substance abuse treatment services; qualified
 390 | professional.—Notwithstanding any other provision of law, a
 391 | person who was certified through a certification process
 392 | recognized by the former Department of Health and Rehabilitative
 393 | Services before January 1, 1995, may perform the duties of a
 394 | qualified professional with respect to substance abuse treatment
 395 | services as defined in this chapter, and need not meet the
 396 | certification requirements contained in s. 397.311(35) ~~s.~~
 397 | ~~397.311(34)~~.

398 | Section 10. Paragraphs (d) and (g) of subsection (1) of
 399 | section 440.102, Florida Statutes, are amended to read:

400 | 440.102 Drug-free workplace program requirements.—The

401 following provisions apply to a drug-free workplace program
402 implemented pursuant to law or to rules adopted by the Agency
403 for Health Care Administration:

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

406 (d) "Drug rehabilitation program" means a service
407 provider, established pursuant to s. 397.311(44) ~~s. 397.311(43)~~,
408 that provides confidential, timely, and expert identification,
409 assessment, and resolution of employee drug abuse.

410 (g) "Employee assistance program" means an established
411 program capable of providing expert assessment of employee
412 personal concerns; confidential and timely identification
413 services with regard to employee drug abuse; referrals of
414 employees for appropriate diagnosis, treatment, and assistance;
415 and followup services for employees who participate in the
416 program or require monitoring after returning to work. If, in
417 addition to the above activities, an employee assistance program
418 provides diagnostic and treatment services, these services shall
419 in all cases be provided by service providers pursuant to s.
420 397.311(44) ~~s. 397.311(43)~~.

421 Section 11. This act shall take effect July 1, 2018.