



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; providing additional
40 | conditions for an exception to limitations on
41 | referrals by licensed service providers to their
42 | wholly owned subsidiaries; prohibiting recovery
43 | residences and specified affiliated individuals from
44 | receiving pecuniary benefits from licensed service
45 | providers for certain referrals; providing penalties;
46 | amending s. 435.07, F.S.; authorizing certain persons
47 | to be exempted from disqualification from employment;
48 | amending ss. 212.055, 397.416, and 440.102, F.S.;
49 | conforming cross-references; providing an effective
50 | date.



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

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

394.4572 Screening of mental health personnel.—

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

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

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

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

(30) "Peer specialist" means a person who has been in recovery from a substance use disorder or mental illness for at least 2 years who uses his or her personal experience to deliver services in behavioral health settings to support others in



76 | their recovery, or a person who has experience as a family
77 | member or a caregiver of a person with a substance use disorder
78 | or mental illness. The term does not include a person who is a
79 | qualified professional or otherwise certified under chapter 394
80 | or 397.

81 | Section 3. Paragraphs (a), (f), and (g) of subsection (1)
82 | and subsection (4) of section 397.4073, Florida Statutes, are
83 | amended to read:

84 | 397.4073 Background checks of service provider personnel.—

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

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

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

96 | 2. All service provider personnel who have direct contact
97 | with children receiving services or with adults who are
98 | developmentally disabled receiving services are subject to level
99 | 2 background screening as provided under chapter 435. Such
100 | screening shall also include background screening as provided in



101 s. 408.809.

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

106 (f) Service provider personnel who request an exemption
107 from disqualification must submit the request within 30 days
108 after being notified of the disqualification. The department
109 shall grant or deny the exemption from disqualification within
110 60 days after receipt of a complete application.

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

124 (h) ~~(g)~~ The department may not issue a regular license to
125 any service provider that fails to provide proof that background



126 screening information has been submitted in accordance with
127 chapter 435.

128 (4) EXEMPTIONS FROM DISQUALIFICATION.—

129 (a) The department may grant to any service provider
130 personnel an exemption from disqualification as provided in s.
131 435.07.

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

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

150 Section 4. Section 397.417, Florida Statutes, is created



151 to read:

152 397.417 Behavioral health peer specialists.—

153 (1) An individual is eligible for certification as a peer
154 specialist if he or she has been in recovery from a substance
155 use disorder or mental illness for at least 2 years or if he or
156 she has experience as a family member or caregiver of a person
157 with a substance use disorder or mental illness.

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

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

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



176 | 397.487 Voluntary certification of recovery residences.—

177 | (1) The Legislature finds that a person suffering from
178 | addiction has a higher success rate of achieving long-lasting
179 | sobriety when given the opportunity to build a stronger
180 | foundation by living in a recovery residence while receiving
181 | treatment or after completing treatment. The Legislature further
182 | finds that this state and its subdivisions have a legitimate
183 | state interest in protecting these persons, who represent a
184 | vulnerable consumer population in need of adequate housing. It
185 | is the intent of the Legislature to protect persons who reside
186 | in a recovery residence.

187 | (3) A credentialing entity shall require the recovery
188 | residence to submit the following documents with the completed
189 | application and fee:

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

196 | (6) All owners, directors, and chief financial officers of
197 | an applicant recovery residence are subject to level 2
198 | background screening as provided under chapter 435 and s.
199 | 408.809. A recovery residence is ineligible for certification,
200 | and a credentialing entity shall deny a recovery residence's



201 application, if any owner, director, or chief financial officer
202 has been found guilty of, or has entered a plea of guilty or
203 nolo contendere to, regardless of adjudication, any offense
204 listed in s. 408.809(4) or s. 435.04(2) unless the department
205 has issued an exemption under s. 397.4073 or s. 397.4872. In
206 accordance with s. 435.04, the department shall notify the
207 credentialing agency of an owner's, director's, or chief
208 financial officer's eligibility based on the results of his or
209 her background screening.

210 Section 6. Section 397.4873, Florida Statutes, is amended
211 to read:

212 397.4873 Referrals to or from recovery residences;
213 prohibitions; penalties.—

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

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

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

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



226 substance use and, in the best judgment of the recovery
227 residence administrator, it appears that the resident may
228 benefit from clinical treatment services ~~the recovery residence~~
229 ~~or its owners, directors, operators, or employees do not~~
230 ~~benefit, directly or indirectly, from the referral.~~

231 (c) Referrals made before January 1, 2019 ~~July 1, 2018~~, by
232 a licensed service provider to that licensed service provider's
233 wholly owned subsidiary, provided that applications and
234 associated fees are submitted by July 1, 2018.

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

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

247 (5)~~(4)~~ A licensed service provider shall maintain records
248 of referrals to or from recovery residences as may be prescribed
249 by the department in rule.

250 (6)~~(5)~~ After June 30, 2019, a licensed service provider



251 violating this section shall be subject to an administrative
252 fine of \$1,000 per occurrence. Repeat violations of this section
253 may subject a provider to license suspension or revocation
254 pursuant to s. 397.415.

255 ~~(7)(6)~~ Nothing in this section requires a licensed service
256 provider to refer a patient to or to accept a referral of a
257 patient from a recovery residence.

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

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

266 (2) Persons employed, or applicants for employment, by
267 treatment providers who treat adolescents 13 years of age and
268 older who are disqualified from employment solely because of
269 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
270 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any
271 related criminal attempt, solicitation, or conspiracy under s.
272 777.04, may be exempted from disqualification from employment
273 pursuant to this chapter without application of the waiting
274 period in subparagraph (1)(a)1.

275 Section 8. Paragraph (e) of subsection (5) of section



276 | 212.055, Florida Statutes, is amended to read:

277 | 212.055 Discretionary sales surtaxes; legislative intent;
278 | authorization and use of proceeds.—It is the legislative intent
279 | that any authorization for imposition of a discretionary sales
280 | surtax shall be published in the Florida Statutes as a
281 | subsection of this section, irrespective of the duration of the
282 | levy. Each enactment shall specify the types of counties
283 | authorized to levy; the rate or rates which may be imposed; the
284 | maximum length of time the surtax may be imposed, if any; the
285 | procedure which must be followed to secure voter approval, if
286 | required; the purpose for which the proceeds may be expended;
287 | and such other requirements as the Legislature may provide.
288 | Taxable transactions and administrative procedures shall be as
289 | provided in s. 212.054.

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



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



326 1. The plan shall divide the county into a minimum of four
327 and maximum of six service areas, with no more than one
328 participant hospital per service area. The county public general
329 hospital shall be designated as the provider for one of the
330 service areas. Services shall be provided through participants'
331 primary acute care facilities.

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



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

375 3. The plan's benefits shall be made available to all



376 county residents currently eligible to receive health care
377 services as indigents or medically poor as defined in paragraph
378 (4) (d).

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

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

391 Section 9. Section 397.416, Florida Statutes, is amended
392 to read:

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



401 ~~397.311(34).~~

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

404 440.102 Drug-free workplace program requirements.—The
405 following provisions apply to a drug-free workplace program
406 implemented pursuant to law or to rules adopted by the Agency
407 for Health Care Administration:

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

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

414 (g) "Employee assistance program" means an established
415 program capable of providing expert assessment of employee
416 personal concerns; confidential and timely identification
417 services with regard to employee drug abuse; referrals of
418 employees for appropriate diagnosis, treatment, and assistance;
419 and followup services for employees who participate in the
420 program or require monitoring after returning to work. If, in
421 addition to the above activities, an employee assistance program
422 provides diagnostic and treatment services, these services shall
423 in all cases be provided by service providers pursuant to s.
424 397.311(44) ~~s. 397.311(43)~~.

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