



306102

LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 02/06/2018 | . | |
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The Committee on Criminal Justice (Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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.



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

17 Section 2. Paragraphs (a), (f), and (g) of subsection (1)
18 and subsection (4) of section 397.4073, Florida Statutes, are
19 amended to read:

20 397.4073 Background checks of service provider personnel.—

21 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
22 EXCEPTIONS.—

23 (a) The department shall require level 2 background
24 screening pursuant to chapter 435 for all owners, directors,
25 chief financial officers, and clinical supervisors who have
26 direct contact with individuals receiving treatment. Such
27 screening shall also include background screening as provided in
28 s. 408.809. ~~Background checks shall apply as follows:~~

29 ~~1. All owners, directors, chief financial officers, and~~
30 ~~clinical supervisors of service providers are subject to level 2~~
31 ~~background screening as provided under chapter 435. Inmate~~
32 ~~substance abuse programs operated directly or under contract~~
33 ~~with the Department of Corrections are exempt from background~~
34 ~~screening requirements under this section this requirement.~~

35 ~~2. All service provider personnel who have direct contact~~
36 ~~with children receiving services or with adults who are~~
37 ~~developmentally disabled receiving services are subject to level~~
38 ~~2 background screening as provided under chapter 435.~~

39 (f) Service provider personnel who request an exemption



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40 from disqualification must submit the request within 30 days
41 after being notified of the disqualification. The department
42 shall grant or deny the exemption from disqualification within
43 60 days after receipt of a complete application.

44 (g) If 5 years or more have elapsed since the most recent
45 disqualifying offense, the applicant for the exemption service
46 provider personnel may work with adults with substance use
47 disorders under the supervision of persons who meet all
48 personnel requirements of this chapter for up to 90 days after
49 being notified of the disqualification or until the department a
50 qualified professional licensed under chapter 490 or chapter 491
51 or a master's-level-certified addictions professional until the
52 agency makes a final determination regarding the request for an
53 exemption from disqualification, whichever is earlier.

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

58 (4) EXEMPTIONS FROM DISQUALIFICATION.—

59 (a) The department may grant to any service provider
60 personnel an exemption from disqualification as provided in s.
61 435.07.

62 (b) Since rehabilitated substance abuse impaired persons
63 are effective in the successful treatment and rehabilitation of
64 individuals with substance use disorders, for service providers
65 which treat adolescents 13 years of age and older, service
66 provider personnel whose background checks indicate crimes under
67 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
68 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s. 893.147, and



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69 any related criminal attempt, solicitation, or conspiracy under
70 s. 777.04, may be exempted from disqualification from employment
71 pursuant to this paragraph.

72 (c) The department may grant exemptions from
73 disqualification for service provider personnel to work solely
74 in substance abuse treatment programs or facilities or in
75 programs or facilities that treat co-occurring substance use and
76 mental health disorders. The department may further limit such
77 ~~grant exemptions from disqualification which would limit service~~
78 ~~provider personnel~~ to working with adults in substance abuse
79 treatment facilities.

80 Section 3. Subsection (1), paragraph (m) of subsection (3),
81 and subsection (6) of section 397.487, Florida Statutes, are
82 amended to read:

83 397.487 Voluntary certification of recovery residences.—

84 (1) The Legislature finds that a person suffering from
85 addiction has a higher success rate of achieving long-lasting
86 sobriety when given the opportunity to build a stronger
87 foundation by living in a recovery residence while receiving
88 treatment or after completing treatment. The Legislature further
89 finds that this state and its subdivisions have a legitimate
90 state interest in protecting these persons, who represent a
91 vulnerable consumer population in need of adequate housing. It
92 is the intent of the Legislature to protect persons who reside
93 in a recovery residence.

94 (3) A credentialing entity shall require the recovery
95 residence to submit the following documents with the completed
96 application and fee:

97 (m) Proof of satisfactory fire, safety, and health



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98 inspections. A recovery residence must comply with the
99 provisions of the Florida Fire Prevention Code which apply to
100 one-family and two-family dwellings.

101 (6) All owners, directors, and chief financial officers of
102 an applicant recovery residence are subject to level 2
103 background screening as provided under chapter 435 and s.
104 408.809. A recovery residence is ineligible for certification,
105 and a credentialing entity shall deny a recovery residence's
106 application, if any owner, director, or chief financial officer
107 has been found guilty of, or has entered a plea of guilty or
108 nolo contendere to, regardless of adjudication, any offense
109 listed in s. 408.809(4) or s. 435.04(2) unless the department
110 has issued an exemption under s. 397.4073 or s. 397.4872. In
111 accordance with s. 435.04, the department shall notify the
112 credentialing agency of an owner's, director's, or chief
113 financial officer's eligibility based on the results of his or
114 her background screening.

115 Section 4. Section 397.4873, Florida Statutes, is amended
116 to read:

117 397.4873 Referrals to or from recovery residences;
118 prohibitions; penalties.—

119 (1) A service provider licensed under this part may not
120 make a referral of a prospective, current, or discharged patient
121 to, or accept a referral of such a patient from, a recovery
122 residence unless the recovery residence holds a valid
123 certificate of compliance as provided in s. 397.487 and is
124 actively managed by a certified recovery residence administrator
125 as provided in s. 397.4871.

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



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

129 (b) Referrals by a recovery residence to a licensed service
130 provider when a resident has experienced a recurrence of
131 substance use and, in the best judgment of the recovery
132 residence administrator, it appears that the resident may
133 benefit from clinical treatment services ~~the recovery residence~~
134 ~~or its owners, directors, operators, or employees do not~~
135 ~~benefit, directly or indirectly, from the referral.~~

136 (c) Referrals made before July 1, 2019 ~~July 1, 2018~~, by a
137 licensed service provider to that licensed service provider's
138 wholly owned subsidiary.

139 (3) A recovery residence or its owners, directors,
140 operators, employees, or volunteers may not receive a direct
141 pecuniary benefit in exchange for a referral made pursuant to
142 subsection (1) or subsection (2).

143 ~~(4)~~ (3) For purposes of this section, a licensed service
144 provider or recovery residence shall be considered to have made
145 a referral if the provider or recovery residence has informed a
146 patient by any means about the name, address, or other details
147 of a recovery residence or licensed service provider, or
148 informed a licensed service provider or a recovery residence of
149 any identifying details about a patient.

150 ~~(5)~~ (4) A licensed service provider shall maintain records
151 of referrals to or from recovery residences as may be prescribed
152 by the department in rule.

153 ~~(6)~~ (5) After June 30, 2019, a licensed service provider
154 violating this section shall be subject to an administrative
155 fine of \$1,000 per occurrence. Repeat violations of this section



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156 may subject a provider to license suspension or revocation
157 pursuant to s. 397.415.

158 ~~(7)~~ (6) Nothing in this section requires a licensed service
159 provider to refer a patient to or to accept a referral of a
160 patient from a recovery residence.

161 Section 5. Subsection (2) of section 435.07, Florida
162 Statutes, is amended to read:

163 435.07 Exemptions from disqualification.—Unless otherwise
164 provided by law, the provisions of this section apply to
165 exemptions from disqualification for disqualifying offenses
166 revealed pursuant to background screenings required under this
167 chapter, regardless of whether those disqualifying offenses are
168 listed in this chapter or other laws.

169 (2) Persons employed, or applicants for employment, by
170 treatment providers who treat adolescents 13 years of age and
171 older who are disqualified from employment solely because of
172 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
173 817.563, s. 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s.
174 893.147, and any related criminal attempt, solicitation, or
175 conspiracy under s. 777.04, may be exempted from
176 disqualification from employment pursuant to this chapter
177 without application of the waiting period in subparagraph
178 (1)(a)1.

179 Section 6. This act shall take effect July 1, 2018.

180
181 ===== T I T L E A M E N D M E N T =====

182 And the title is amended as follows:

183 Delete everything before the enacting clause
184 and insert:



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185 A bill to be entitled
186 An act relating to substance abuse services; amending
187 s. 394.4572, F.S.; authorizing the Department of
188 Health or the Agency for Health Care Administration,
189 as applicable, to grant exemptions from
190 disqualification for service provider personnel to
191 work solely in certain treatment programs and
192 facilities; amending s. 397.4073, F.S.; revising
193 provisions relating to background checks and
194 exemptions from disqualification for certain service
195 provider personnel; requiring the Department of
196 Children and Families to grant or deny an exemption
197 from disqualification within a certain timeframe;
198 authorizing certain applicants for an exemption to
199 work under the supervision of certain persons for a
200 specified period of time while his or her application
201 is pending; authorizing certain persons to be exempted
202 from disqualification from employment; authorizing the
203 department to grant exemptions from disqualification
204 for service provider personnel to work solely in
205 certain treatment programs and facilities; amending s.
206 397.487, F.S.; revising legislative findings relating
207 to voluntary certification of recovery residences;
208 requiring recovery residences to comply with specified
209 Florida Fire Prevention Code provisions; revising
210 background screening requirements for owners,
211 directors, and chief financial officers of recovery
212 residences; amending s. 397.4873, F.S.; providing
213 exceptions to limitations on referrals by recovery



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214 residences to licensed service providers; prohibiting
215 recovery residences and specified affiliated
216 individuals from benefitting from certain referrals;
217 providing penalties; amending s. 435.07, F.S.;
218 authorizing the exemption of certain persons from
219 disqualification from employment; providing an
220 effective date.