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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2018	.	
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The Committee on Children, Families, and Elder Affairs (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.



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, and for
26 service provider personnel and volunteers, except as provided in
27 paragraph (c), who have direct contact with individuals
28 receiving treatment. Such screening shall also include
29 background screening as provided in s. 408.809. ~~Background~~
30 checks shall apply as follows:

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

37 ~~2. All service provider personnel who have direct contact~~
38 ~~with children receiving services or with adults who are~~
39 ~~developmentally disabled receiving services are subject to level~~



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40 ~~2 background screening as provided under chapter 435.~~

41 (f) Service provider personnel who request an exemption
42 from disqualification must submit the request within 30 days
43 after being notified of the disqualification. The department
44 shall grant or deny the exemption from disqualification within
45 60 days after receipt of a complete application.

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

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

63 (4) EXEMPTIONS FROM DISQUALIFICATION.—

64 (a) The department may grant to any service provider
65 personnel an exemption from disqualification as provided in s.
66 435.07.

67 (b) Since rehabilitated substance abuse impaired persons
68 are effective in the successful treatment and rehabilitation of



69 individuals with substance use disorders, for service providers
70 which treat adolescents 13 years of age and older, service
71 provider personnel whose background checks indicate crimes under
72 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
73 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s. 893.147, and
74 any related criminal attempt, solicitation, or conspiracy under
75 s. 777.04, may be exempted from disqualification from employment
76 pursuant to this paragraph.

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

85 Section 3. Subsection (1), paragraph (m) of subsection (3),
86 and subsection (6) of section 397.487, Florida Statutes, are
87 amended to read:

88 397.487 Voluntary certification of recovery residences.—

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



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98 in a recovery residence.

99 (3) A credentialing entity shall require the recovery
100 residence to submit the following documents with the completed
101 application and fee:

102 (m) Proof of satisfactory fire, safety, and health
103 inspections. A recovery residence must comply with the
104 provisions of the Florida Fire Prevention Code which apply to
105 one-family and two-family dwellings, public lodging
106 establishments, or rooming houses, or other housing facilities,
107 as applicable.

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

122 Section 4. Section 397.4873, Florida Statutes, is amended
123 to read:

124 397.4873 Referrals to or from recovery residences;
125 prohibitions; penalties.—

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



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127 make a referral of a prospective, current, or discharged patient
128 to, or accept a referral of such a patient from, a recovery
129 residence unless the recovery residence holds a valid
130 certificate of compliance as provided in s. 397.487 and is
131 actively managed by a certified recovery residence administrator
132 as provided in s. 397.4871.

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

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

136 (b) Referrals by a recovery residence to a licensed service
137 provider when a resident has experienced a recurrence of
138 substance use and, in the best judgment of the recovery
139 residence administrator, it appears that the resident may
140 benefit from clinical treatment services ~~the recovery residence~~
141 ~~or its owners, directors, operators, or employees do not~~
142 ~~benefit, directly or indirectly, from the referral.~~

143 (c) Referrals made before July 1, 2018, by a licensed
144 service provider to that licensed service provider's wholly
145 owned subsidiary.

146 (3) A recovery residence or its owners, directors,
147 operators, employees, or volunteers may not benefit, directly or
148 indirectly, from a referral made pursuant to subsection (1) or
149 subsection (2).

150 (4) ~~(3)~~ For purposes of this section, a licensed service
151 provider or recovery residence shall be considered to have made
152 a referral if the provider or recovery residence has informed a
153 patient by any means about the name, address, or other details
154 of a recovery residence or licensed service provider, or
155 informed a licensed service provider or a recovery residence of



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156 any identifying details about a patient.

157 ~~(5)-(4)~~ A licensed service provider shall maintain records
158 of referrals to or from recovery residences as may be prescribed
159 by the department in rule.

160 ~~(6)-(5)~~ After June 30, 2019, a licensed service provider
161 violating this section shall be subject to an administrative
162 fine of \$1,000 per occurrence. Repeat violations of this section
163 may subject a provider to license suspension or revocation
164 pursuant to s. 397.415.

165 ~~(7)-(6)~~ Nothing in this section requires a licensed service
166 provider to refer a patient to or to accept a referral of a
167 patient from a recovery residence.

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

170 435.07 Exemptions from disqualification.—Unless otherwise
171 provided by law, the provisions of this section apply to
172 exemptions from disqualification for disqualifying offenses
173 revealed pursuant to background screenings required under this
174 chapter, regardless of whether those disqualifying offenses are
175 listed in this chapter or other laws.

176 (2) Persons employed, or applicants for employment, by
177 treatment providers who treat adolescents 13 years of age and
178 older who are disqualified from employment solely because of
179 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
180 817.563, s. 831.01, s. 831.02, s. 832.05(4), s. 893.13, or s.
181 893.147, and any related criminal attempt, solicitation, or
182 conspiracy under s. 777.04, may be exempted from
183 disqualification from employment pursuant to this chapter
184 without application of the waiting period in subparagraph



185 (1) (a) 1.

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

187 ===== T I T L E A M E N D M E N T =====

188 And the title is amended as follows:

189 Delete everything before the enacting clause
190 and insert:

191 A bill to be entitled
192 An act relating to substance abuse services; amending
193 s. 394.4572, F.S.; authorizing the Department of
194 Health or the Agency for Health Care Administration,
195 as applicable, to grant exemptions from
196 disqualification for service provider personnel to
197 work solely in certain treatment programs and
198 facilities; amending s. 397.4073, F.S.; revising
199 provisions relating to background checks and
200 exemptions from disqualification for certain service
201 provider personnel and volunteers; requiring the
202 Department of Children and Families to grant or deny
203 an exemption from disqualification within a certain
204 timeframe; authorizing certain applicants for an
205 exemption to work under the supervision of certain
206 persons for a specified period of time while his or
207 her application is pending; authorizing certain
208 persons to be exempted from disqualification from
209 employment; authorizing the department to grant
210 exemptions from disqualification for service provider
211 personnel to work solely in certain treatment programs
212 and facilities; amending s. 397.487, F.S.; revising
213 legislative findings relating to voluntary



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214 certification of recovery residences; requiring
215 recovery residences to comply with specified Florida
216 Fire Prevention Code provisions; revising background
217 screening requirements for owners, directors, and
218 chief financial officers of recovery residences;
219 amending s. 397.4873, F.S.; providing exceptions to
220 limitations on referrals by recovery residences to
221 licensed service providers; prohibiting recovery
222 residences and specified affiliated individuals from
223 benefitting from certain referrals; providing
224 penalties; amending s. 435.07, F.S.; authorizing the
225 exemption of certain persons from disqualification
226 from employment; providing an effective date.