

By Senator Rouson

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1 A bill to be entitled
2 An act relating to substance abuse services; amending
3 s. 397.311, F.S.; deleting the definition of the term
4 "day or night treatment with community housing";
5 defining the term "treatment with housing overlay";
6 amending s. 397.4073, F.S.; requiring the Department
7 of Children and Families to notify an applicant within
8 a certain timeframe regarding the status of the
9 applicant's application for an exemption from
10 disqualification for a disqualifying offense revealed
11 pursuant to a background screening; amending s.
12 397.487, F.S.; revising legislative findings relating
13 to voluntary certification of recovery residences;
14 requiring recovery residences to comply with specified
15 Florida Fire Prevention Code provisions; revising
16 background screening requirements for owners,
17 directors, and chief financial officers of recovery
18 residences; amending s. 397.4873, F.S.; prohibiting
19 service providers from having certain contractual or
20 referral relationships with recovery residences;
21 revising applicability; prohibiting recovery
22 residences and specified affiliated individuals from
23 benefiting from certain referrals; providing
24 penalties; amending s. 435.07, F.S.; revising criteria
25 for an exemption from disqualification for an employee
26 providing mental health and substance use treatment
27 services under certain circumstances; amending s.
28 394.9085, F.S.; conforming a cross-reference;
29 providing an effective date.

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

Section 1. Paragraph (a) of subsection (26) of section 397.311, Florida Statutes, is amended to read:

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

(26) Licensed service components include a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, including the following services:

(a) "Clinical treatment" means a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle. As defined by rule, "clinical treatment services" include, but are not limited to, the following licensable service components:

1. "Addictions receiving facility" is a secure, acute care facility that provides, at a minimum, detoxification and stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the department to serve individuals found to be substance use impaired as described in s. 397.675 who meet the placement criteria for this component.

2. "Day or night treatment" is a service provided in a nonresidential environment, with a structured schedule of treatment and rehabilitative services.

~~3. "Day or night treatment with community housing" means a program intended for individuals who can benefit from living independently in peer community housing while participating in~~

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59 ~~treatment services for a minimum of 5 hours a day for a minimum~~
60 ~~of 25 hours per week.~~

61 3.4. "Detoxification" is a service involving subacute care
62 that is provided on an inpatient or an outpatient basis to
63 assist individuals to withdraw from the physiological and
64 psychological effects of substance abuse and who meet the
65 placement criteria for this component.

66 4.5. "Intensive inpatient treatment" includes a planned
67 regimen of evaluation, observation, medical monitoring, and
68 clinical protocols delivered through an interdisciplinary team
69 approach provided 24 hours per day, 7 days per week, in a highly
70 structured, live-in environment.

71 5.6. "Intensive outpatient treatment" is a service that
72 provides individual or group counseling in a more structured
73 environment, is of higher intensity and duration than outpatient
74 treatment, and is provided to individuals who meet the placement
75 criteria for this component.

76 6.7. "Medication-assisted treatment for opiate addiction"
77 is a service that uses methadone or other medication as
78 authorized by state and federal law, in combination with
79 medical, rehabilitative, and counseling services in the
80 treatment of individuals who are dependent on opioid drugs.

81 7.8. "Outpatient treatment" is a service that provides
82 individual, group, or family counseling by appointment during
83 scheduled operating hours for individuals who meet the placement
84 criteria for this component.

85 8.9. "Residential treatment" is a service provided in a
86 structured live-in environment within a nonhospital setting on a
87 24-hours-per-day, 7-days-per-week basis, and is intended for

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88 individuals who meet the placement criteria for this component.

89 9. "Treatment with housing overlay" is a program that
90 provides one or more of the components in subparagraphs 2.-8.
91 for individuals who are living independently in a recovery
92 residence while participating in substance abuse treatment
93 services. A service provider that offers treatment with housing
94 overlay may only do so through a recovery residence that holds a
95 valid certificate of compliance as provided in s. 397.487 and is
96 actively managed by a certified recovery residence administrator
97 as provided in s. 397.4871.

98 Section 2. Paragraphs (f) and (g) of subsection (1) of
99 section 397.4073, Florida Statutes, are amended to read:

100 397.4073 Background checks of service provider personnel.—

101 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
102 EXCEPTIONS.—

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 must notify the applicant within 60 days after receipt of a
107 completed application whether an exemption is granted or denied.

108 (g) If 5 years or more have elapsed since the most recent
109 disqualifying offense, service provider personnel may work with
110 adults with substance use disorders under the supervision of a
111 qualified professional licensed under chapter 490 or chapter 491
112 or a master's-level-certified addictions professional until the
113 agency makes a final determination regarding the request for an
114 exemption from disqualification.

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

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117 screening information has been submitted in accordance with
118 chapter 435.

119 Section 3. Subsection (1), paragraph (m) of subsection (3),
120 and subsection (6) of section 397.487, Florida Statutes, are
121 amended to read:

122 397.487 Voluntary certification of recovery residences.—

123 (1) The Legislature finds that a person suffering from
124 addiction has a higher success rate of achieving long-lasting
125 sobriety when given the opportunity to build a stronger
126 foundation by living in a recovery residence while receiving
127 treatment or after completing treatment. The Legislature further
128 finds that this state and its subdivisions have a legitimate
129 state interest in protecting these persons, who represent a
130 vulnerable consumer population in need of adequate housing. It
131 is the intent of the Legislature to protect persons who reside
132 in a recovery residence.

133 (3) A credentialing entity shall require the recovery
134 residence to submit the following documents with the completed
135 application and fee:

136 (m) Proof of satisfactory fire, safety, and health
137 inspections. A recovery residence must comply with the
138 provisions of the Florida Fire Prevention Code which apply to
139 one-family and two-family dwellings, public lodging
140 establishments or rooming houses, or other housing facilities,
141 as applicable.

142 (6) All owners, directors, and chief financial officers of
143 an applicant recovery residence are subject to level 2
144 background screening as provided under chapter 435 and s.
145 408.809. A recovery residence is ineligible for certification,

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146 and a credentialing entity shall deny a recovery residence's
147 application, if any owner, director, or chief financial officer
148 has been found guilty of, or has entered a plea of guilty or
149 nolo contendere to, regardless of adjudication, any offense
150 listed in s. 435.04(2) unless the department has issued an
151 exemption under s. 397.4872. In accordance with s. 435.04, the
152 department shall notify the credentialing agency of an owner's,
153 director's, or chief financial officer's eligibility based on
154 the results of his or her background screening.

155 Section 4. Section 397.4873, Florida Statutes, is amended
156 to read:

157 397.4873 Referrals to or from recovery residences;
158 prohibitions; penalties.—

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

160 (a) Make a referral of a prospective, current, or
161 discharged patient to, or accept a referral of such a patient
162 from, a recovery residence unless the recovery residence holds a
163 valid certificate of compliance as provided in s. 397.487 and is
164 actively managed by a certified recovery residence administrator
165 as provided in s. 397.4871.

166 (b) Have a contractual or referral relationship with a
167 recovery residence to provide treatment with housing overlay
168 pursuant to s. 397.311(26) unless the recovery residence holds a
169 valid certificate of compliance as provided in s. 397.487 and is
170 actively managed by a certified recovery residence administrator
171 as provided in s. 397.4871.

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

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

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175 (b) Referrals by a recovery residence to a licensed service
176 provider when a resident has experienced a recurrence of
177 substance use and, in the best judgment of the recovery
178 residence administrator, it appears that the resident may
179 benefit from clinical treatment services ~~the recovery residence~~
180 ~~or its owners, directors, operators, or employees do not~~
181 ~~benefit, directly or indirectly, from the referral.~~

182 (c) Referrals made before July 1, 2018, by a licensed
183 service provider to that licensed service provider's wholly
184 owned subsidiary.

185 (3) A recovery residence or its owners, directors,
186 operators, employees, or volunteers may not benefit, directly or
187 indirectly, from a referral made pursuant to subsection (1) or
188 subsection (2).

189 ~~(4)(3)~~ For purposes of this section, a licensed service
190 provider or recovery residence shall be considered to have made
191 a referral if the provider or recovery residence has informed a
192 patient by any means about the name, address, or other details
193 of a recovery residence or licensed service provider, or
194 informed a licensed service provider or a recovery residence of
195 any identifying details about a patient.

196 ~~(5)(4)~~ A licensed service provider shall maintain records
197 of referrals to or from recovery residences as may be prescribed
198 by the department in rule.

199 ~~(6)(5)~~ After June 30, 2019, a licensed service provider
200 violating this section shall be subject to an administrative
201 fine of \$1,000 per occurrence. Repeat violations of this section
202 may subject a provider to license suspension or revocation
203 pursuant to s. 397.415.

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204 (7)~~(6)~~ Nothing in this section requires a licensed service
205 provider to refer a patient to or to accept a referral of a
206 patient from a recovery residence.

207 Section 5. Subsections (2) through (5) of section 435.07,
208 Florida Statutes, are renumbered as subsections (3) through (6),
209 respectively, and a new subsection (2) is added to that section,
210 to read:

211 435.07 Exemptions from disqualification.—Unless otherwise
212 provided by law, the provisions of this section apply to
213 exemptions from disqualification for disqualifying offenses
214 revealed pursuant to background screenings required under this
215 chapter, regardless of whether those disqualifying offenses are
216 listed in this chapter or other laws.

217 (2) The head of the appropriate agency may grant an
218 exemption from disqualification which is limited solely to
219 employment related to providing mental health and substance
220 abuse treatment under chapter 394 or chapter 397 to an employee
221 otherwise disqualified from employment under subsection (1).

222 Section 6. Subsection (6) of section 394.9085, Florida
223 Statutes, is amended to read:

224 394.9085 Behavioral provider liability.—

225 (6) For purposes of this section, the terms "detoxification
226 services," "addictions receiving facility," and "receiving
227 facility" have the same meanings as those provided in ss.
228 397.311(26)(a)3. ~~397.311(26)(a)4.~~, 397.311(26)(a)1., and
229 394.455(39), respectively.

230 Section 7. This act shall take effect July 1, 2018.