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LEGISLATIVE ACTION

Senate

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House

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Floor: NC/3R

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05/03/2019 10:35 AM

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Senator Rouson moved the following:

1 **Senate Amendment to Amendment (624706) (with title**
2 **amendment)**

3
4 Delete lines 283 - 421

5 and insert:

6 Section 5. Present subsections (30) through (49) of section
7 397.311, Florida Statutes, are redesignated as subsections (31)
8 through (50), respectively, a new subsection (30) is added to
9 that section, and present subsection (37) of that section is
10 amended, to read:

11 397.311 Definitions.—As used in this chapter, except part



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12 VIII, the term:

13 (30) "Peer specialist" has the same meaning as in s.
14 394.455.

15 (38)~~(37)~~ "Recovery residence" means a residential dwelling
16 unit, the community housing component of a licensed day or night
17 treatment facility with community housing, or other form of
18 group housing, which ~~that~~ is offered or advertised through any
19 means, including oral, written, electronic, or printed means, by
20 any person or entity as a residence that provides a peer-
21 supported, alcohol-free, and drug-free living environment.

22 Section 6. Section 397.4012, Florida Statutes, is amended
23 to read:

24 397.4012 Exemptions from licensure.—The following are
25 exempt from the licensing provisions of this chapter:

26 (1) A hospital or hospital-based component licensed under
27 chapter 395.

28 (2) A nursing home facility as defined in s. 400.021.

29 (3) A substance abuse education program established
30 pursuant to s. 1003.42.

31 (4) A facility or institution operated by the Federal
32 Government.

33 (5) A physician or physician assistant licensed under
34 chapter 458 or chapter 459.

35 (6) A psychologist licensed under chapter 490.

36 (7) A social worker, marriage and family therapist, or
37 mental health counselor licensed under chapter 491.

38 (8) A legally cognizable church or nonprofit religious
39 organization or denomination providing substance abuse services,
40 including prevention services, which are solely religious,



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41 spiritual, or ecclesiastical in nature. A church or nonprofit
42 religious organization or denomination providing any of the
43 licensed service components itemized under s. 397.311(26) is not
44 exempt from substance abuse licensure but retains its exemption
45 with respect to all services which are solely religious,
46 spiritual, or ecclesiastical in nature.

47 (9) Facilities licensed under chapter 393 which, in
48 addition to providing services to persons with developmental
49 disabilities, also provide services to persons developmentally
50 at risk as a consequence of exposure to alcohol or other legal
51 or illegal drugs while in utero.

52 (10) DUI education and screening services provided pursuant
53 to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons
54 or entities providing treatment services must be licensed under
55 this chapter unless exempted from licensing as provided in this
56 section.

57 (11) A facility licensed under s. 394.875 as a crisis
58 stabilization unit.

59
60 The exemptions from licensure in subsections (3), (4), (8), (9),
61 and (10) ~~this section~~ do not apply to any service provider that
62 receives an appropriation, grant, or contract from the state to
63 operate as a service provider as defined in this chapter or to
64 any substance abuse program regulated pursuant to s. 397.4014.
65 Furthermore, this chapter may not be construed to limit the
66 practice of a physician or physician assistant licensed under
67 chapter 458 or chapter 459, a psychologist licensed under
68 chapter 490, a psychotherapist licensed under chapter 491, or an
69 advanced practice registered nurse licensed under part I of



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70 chapter 464, who provides substance abuse treatment, so long as
71 the physician, physician assistant, psychologist,
72 psychotherapist, or advanced practice registered nurse does not
73 represent to the public that he or she is a licensed service
74 provider and does not provide services to individuals pursuant
75 to part V of this chapter. Failure to comply with any
76 requirement necessary to maintain an exempt status under this
77 section is a misdemeanor of the first degree, punishable as
78 provided in s. 775.082 or s. 775.083.

79 Section 7. Subsection (3) of section 397.403, Florida
80 Statutes, is amended to read:

81 397.403 License application.—

82 (3) Applications for licensure renewal must include proof
83 of application for accreditation for each licensed service
84 component providing clinical treatment by an accrediting
85 organization that is acceptable to the department for the first
86 renewal, and proof of accreditation for any subsequent renewals.
87 This subsection does not apply to any inmate substance abuse
88 program operated by or under an exclusive contract with a jail
89 or the Department of Corrections.

90 Section 8. Paragraph (g) of subsection (1) of section
91 397.4073, Florida Statutes, is redesignated as paragraph (h), a
92 new paragraph (g) is added to that subsection, and paragraphs
93 (a) and (f) of that subsection and paragraphs (b) and (c) of
94 subsection (4) are amended, to read:

95 397.4073 Background checks of service provider personnel.—

96 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
97 EXCEPTIONS.—

98 (a) For all individuals screened on or after July 1, 2019,



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99 background checks shall apply as follows:

100 1. All owners, directors, chief financial officers, and
101 clinical supervisors of service providers are subject to level 2
102 background screening as provided under s. 408.809 and chapter
103 435. Inmate substance abuse programs operated directly or under
104 contract with the Department of Corrections are exempt from this
105 requirement.

106 2. All service provider personnel who have direct contact
107 with children receiving services or with adults who are
108 developmentally disabled receiving services are subject to level
109 2 background screening as provided under s. 408.809 and chapter
110 435.

111 3. All peer specialists who have direct contact with
112 individuals held for examination under s. 394.463 or receiving
113 mental health or substance abuse treatment or services are
114 subject to level 2 background screening as provided under s.
115 397.417.

116 (f) Service provider personnel who request an exemption
117 from disqualification must submit the request within 30 days
118 after being notified of the disqualification. The department
119 shall grant or deny the request within 60 days after receipt of
120 a complete application.

121 (g) If 5 years or more, or 3 years or more in the case of a
122 certified peer specialist or an individual seeking certification
123 as a peer specialist pursuant to s. 397.417, have elapsed since
124 an applicant for an exemption from disqualification has
125 completed or has been lawfully released from confinement,
126 supervision, or a nonmonetary condition imposed by a court for
127 the applicant's most recent disqualifying offense, the applicant



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128 may work with adults with substance use disorders or co-
129 occurring disorders under the supervision of persons who meet
130 all personnel requirements of this chapter for up to 90 days
131 after being notified of his or her disqualification or until the
132 department makes a final determination regarding his or her
133 request for an exemption from disqualification, whichever is
134 earlier the most recent disqualifying offense, service provider
135 personnel may work with adults with substance use disorders
136 under the supervision of a qualified professional licensed under
137 chapter 490 or chapter 491 or a master's level certified
138 addictions professional until the agency makes a final
139 determination regarding the request for an exemption from
140 disqualification.

141 (4) EXEMPTIONS FROM DISQUALIFICATION.-

142 (b) ~~Since rehabilitated substance abuse impaired persons~~
143 ~~are effective in the successful treatment and rehabilitation of~~
144 ~~individuals with substance use disorders, for service providers~~
145 ~~which treat adolescents 13 years of age and older, service~~
146 ~~provider personnel whose background checks indicate crimes under~~
147 ~~s. 817.563, s. 893.13, or s. 893.147 may be exempted from~~
148 ~~disqualification from employment pursuant to this paragraph.~~

149 (c) The department may grant exemptions from
150 disqualification for service provider personnel to work solely
151 in substance use disorder treatment programs, facilities, or
152 recovery residences or in programs or facilities that treat co-
153 occurring substance use and mental health disorders. The
154 department may further limit such grant exemptions from
155 disqualification which would limit service provider personnel to
156 working with adults in substance abuse treatment facilities.



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157 Section 9. Subsections (1) and (6) of section 397.487,
158 Florida Statutes, are amended, paragraph (e) is added to
159 subsection (8), and subsection (11) is added to that section, to
160 read:

161 397.487 Voluntary certification of recovery residences.—

162 (1) The Legislature finds that a person suffering from
163 addiction has a higher success rate of achieving long-lasting
164 sobriety when given the opportunity to build a stronger
165 foundation by living in a recovery residence while receiving
166 treatment or after completing treatment. The Legislature further
167 finds that this state and its subdivisions have a legitimate
168 state interest in protecting these persons, who represent a
169 vulnerable consumer population in need of adequate housing. It
170 is the intent of the Legislature to protect persons who reside
171 in a recovery residence.

172 (6) All owners, directors, and chief financial officers of
173 an applicant recovery residence are subject to level 2
174 background screening as provided under s. 408.809 and chapter
175 435. A recovery residence is ineligible for certification, and a
176 credentialing entity shall deny a recovery residence's
177 application, if any owner, director, or chief financial officer
178 has been found guilty of, or has entered a plea of guilty or
179 nolo contendere to, regardless of adjudication, any offense
180 listed in s. 408.809(4) or s. 435.04(2) unless the department
181 has issued an exemption under s. 397.4073 or s. 397.4872. In
182 accordance with s. 435.04, the department shall notify the
183 credentialing agency of an owner's, director's, or chief
184 financial officer's eligibility based on the results of his or
185 her background screening.



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186 (8) Onsite followup monitoring of a certified recovery
187 residence may be conducted by the credentialing entity to
188 determine continuing compliance with certification requirements.
189 The credentialing entity shall inspect each certified recovery
190 residence at least annually to ensure compliance.

191 (e) Any decision by a department-recognized credentialing
192 entity to deny, revoke, or suspend a certification, or otherwise
193 impose sanctions on a recovery residence, is reviewable by the
194 department. Upon receiving an adverse determination, the
195 recovery residence may request an administrative hearing
196 pursuant to ss. 120.569 and 120.57(1) within 30 days after
197 completing any appeals process offered by the credentialing
198 entity or the department, as applicable.

199 (11) Notwithstanding any landlord and tenant rights and
200 obligations under chapter 83, a recovery residence that is
201 certified under this section and has a discharge policy approved
202 by a department-recognized credentialing entity may immediately
203 discharge or transfer a resident in accordance with that policy
204 under any of the following circumstances:

205 (a) The discharge or transfer is necessary for the
206 resident's welfare.

207 (b) The resident's needs cannot be met at the recovery
208 residence.

209 (c) The health and safety of other residents or recovery
210 residence employees is at risk or would be at risk if the
211 resident continues to live at the recovery residence.

212 Section 10. Paragraph (d) is added to subsection (2) of
213 section 397.4873, Florida Statutes, and subsection (1) of that
214 section is republished, to read:



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215 397.4873 Referrals to or from recovery residences;
216 prohibitions; penalties.—

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

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

225 (d) The referral of a patient to, or acceptance of a
226 referral of such a patient from, a recovery residence that has
227 no direct or indirect financial or other referral relationship
228 with the licensed service provider and that is democratically
229 operated by its residents pursuant to a charter from an entity
230 recognized or sanctioned by Congress, and where the residence or
231 any resident of the residence does not receive a benefit,
232 directly or indirectly, for the referral.

233 Section 11. Paragraph (d) of subsection (1) of section
234 397.55, Florida Statutes, is amended to read:

235 397.55 Prohibition of deceptive marketing practices.—

236 (1) The Legislature recognizes that consumers of substance
237 abuse treatment have disabling conditions and that such
238 consumers and their families are vulnerable and at risk of being
239 easily victimized by fraudulent marketing practices that
240 adversely impact the delivery of health care. To protect the
241 health, safety, and welfare of this vulnerable population, a
242 service provider, an operator of a recovery residence, or a
243 third party who provides any form of advertising or marketing



244 services to a service provider or an operator of a recovery
245 residence may not engage in any of the following marketing
246 practices:

247 (d) Entering into a contract with a marketing provider who
248 agrees to generate referrals or leads for the placement of
249 patients with a service provider or in a recovery residence
250 through a call center or a web-based presence, unless the
251 contract requires such agreement and the marketing provider
252 ~~service provider or the operator of the recovery residence~~
253 discloses the following to the prospective patient so that the
254 patient can make an informed health care decision:

255 1. Information about the specific licensed service
256 providers or recovery residences that are represented by the
257 marketing provider and pay a fee to the marketing provider,
258 including the identity of such service providers or recovery
259 residences; and

260 2. Clear and concise instructions that allow the
261 prospective patient to easily access lists of licensed service
262 providers and recovery residences on the department website.

263
264 ===== T I T L E A M E N D M E N T =====

265 And the title is amended as follows:

266 Delete lines 1004 - 1021

267 and insert:

268 amending s. 397.311, F.S.; providing and revising
269 definitions; amending s. 397.4012, F.S.; revising the
270 applicability of exemptions from licensure for certain
271 entities; amending s. 397.403, F.S.; providing an
272 exemption from certain accreditation requirements



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273 relating to licensure renewal for certain inmate
274 substance abuse programs; amending s. 397.4073, F.S.;
275 requiring individuals screened on or after a specified
276 date to undergo a specified background screening;
277 requiring the Department of Children and Families to
278 grant or deny a request for an exemption from
279 disqualification within a certain timeframe;
280 authorizing a certain applicant for an exemption to
281 work under the supervision of certain persons for a
282 specified period of time while his or her application
283 for an exemption from disqualification is pending;
284 deleting a provision exempting certain persons from
285 disqualification from employment; authorizing the
286 department to grant exemptions from disqualification
287 for service provider personnel to work solely in
288 certain treatment programs, facilities, or recovery
289 residences; amending s. 397.487, F.S.; revising
290 legislative findings relating to voluntary
291 certification of recovery residences; revising
292 background screening requirements for owners,
293 directors, and chief financial officers of recovery
294 residences; providing for review by the department of
295 certain decisions made by a department-recognized
296 credentialing entity; authorizing certain recovery
297 residences to request an administrative hearing within
298 a specified timeframe under certain conditions;
299 authorizing certain recovery residences to immediately
300 discharge or transfer residents under certain
301 circumstances; amending s. 397.4873, F.S.; expanding



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302 the exceptions to limitations on referrals by recovery
303 residences to licensed service providers; amending s.
304 397.55, F.S.; revising the requirements for a service
305 provider, operator of a recovery residence, or certain
306 third parties to enter into certain contracts with
307 marketing providers; creating s. 397.417,