

1 A bill to be entitled
 2 An act relating to substance abuse and mental health;
 3 amending s. 394.455, F.S.; revising the definition of
 4 the term "mental illness" to exclude conditions
 5 manifested by dementia or traumatic brain injury;
 6 amending s. 394.9085, F.S.; conforming a cross-
 7 reference; amending s. 397.311, F.S.; revising
 8 definitions; amending s. 397.4012, F.S.; revising
 9 entities that are exempt from certain licensing
 10 requirements; amending s. 916.106, F.S.; revising the
 11 definition of the term "mental illness;" amending ss.
 12 916.13 and 916.15, F.S.; authorizing jails to share
 13 medical information pertaining to specified defendants
 14 to the Department of Children and Families; requiring
 15 the maintenance of psychotropic medications to
 16 specified defendants under certain circumstances;
 17 providing an exception; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Subsection (28) of section 394.455, Florida
 22 Statutes, is amended to read:

23 394.455 Definitions.—As used in this part, the term:
 24 (28) "Mental illness" means an impairment of the mental or
 25 emotional processes that exercise conscious control of one's

26 | actions or of the ability to perceive or understand reality,
 27 | which impairment substantially interferes with the person's
 28 | ability to meet the ordinary demands of living. For the purposes
 29 | of this part, the term does not include a developmental
 30 | disability as defined in chapter 393, intoxication, or
 31 | conditions manifested only by dementia, traumatic brain injury,
 32 | antisocial behavior, or substance abuse.

33 | Section 2. Subsection (6) of section 394.9085, Florida
 34 | Statutes, is amended to read:

35 | 394.9085 Behavioral provider liability.—

36 | (6) For purposes of this section, the terms
 37 | "detoxification services," "addictions receiving facility," and
 38 | "receiving facility" have the same meanings as those provided in
 39 | ss. 397.311(26)(a)3. ~~ss. 397.311(26)(a)4.~~, 397.311(26)(a)1., and
 40 | 394.455(39), respectively.

41 | Section 3. Paragraph (a) of subsection (26) of section
 42 | 397.311, Florida Statutes, is amended to read:

43 | 397.311 Definitions.—As used in this chapter, except part
 44 | VIII, the term:

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

49 | (a) "Clinical treatment" means a professionally directed,
 50 | deliberate, and planned regimen of services and interventions

51 that are designed to reduce or eliminate the misuse of drugs and
52 alcohol and promote a healthy, drug-free lifestyle. As defined
53 by rule, "clinical treatment services" include, but are not
54 limited to, the following licensable service components:

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

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

64 ~~3. "Day or night treatment with community housing" means a~~
65 ~~program intended for individuals who can benefit from living~~
66 ~~independently in peer community housing while participating in~~
67 ~~treatment services for a minimum of 5 hours a day for a minimum~~
68 ~~of 25 hours per week.~~

69 3.4. "Detoxification" is a service involving subacute care
70 that is provided on an inpatient or an outpatient basis to
71 assist individuals to withdraw from the physiological and
72 psychological effects of substance abuse and who meet the
73 placement criteria for this component.

74 4.5. "Intensive inpatient treatment" includes a planned
75 regimen of evaluation, observation, medical monitoring, and

76 clinical protocols delivered through an interdisciplinary team
77 approach provided 24 hours per day, 7 days per week, in a highly
78 structured, live-in environment.

79 ~~5.6.~~ "Intensive outpatient treatment" is a service that
80 provides individual or group counseling in a more structured
81 environment, is of higher intensity and duration than outpatient
82 treatment, and is provided to individuals who meet the placement
83 criteria for this component.

84 ~~6.7.~~ "Medication-assisted treatment for opioid use
85 disorders ~~opiate addiction~~" is a service that uses methadone or
86 other medication as authorized by state and federal law, in
87 combination with medical, rehabilitative, supportive, and
88 counseling services in the treatment of individuals who are
89 dependent on opioid drugs.

90 ~~7.8.~~ "Outpatient treatment" is a service that provides
91 individual, group, or family counseling by appointment during
92 scheduled operating hours for individuals who meet the placement
93 criteria for this component.

94 ~~8.9.~~ "Residential treatment" is a service provided in a
95 structured live-in environment within a nonhospital setting on a
96 24-hours-per-day, 7-days-per-week basis, and is intended for
97 individuals who meet the placement criteria for this component.

98 Section 4. Section 397.4012, Florida Statutes, is amended
99 to read:

100 397.4012 Exemptions from licensure.—The following are

101 exempt from the licensing provisions of this chapter:

102 (1) A hospital or hospital-based component licensed under
103 chapter 395.

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

105 (3) A substance abuse education program established
106 pursuant to s. 1003.42.

107 (4) A facility or institution operated by the Federal
108 Government.

109 (5) A physician or physician assistant licensed under
110 chapter 458 or chapter 459.

111 (6) A psychologist licensed under chapter 490.

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

114 (8) A legally cognizable church or nonprofit religious
115 organization or denomination providing substance abuse services,
116 including prevention services, which are solely religious,
117 spiritual, or ecclesiastical in nature. A church or nonprofit
118 religious organization or denomination providing any of the
119 licensed service components itemized under s. 397.311(26) is not
120 exempt from substance abuse licensure but retains its exemption
121 with respect to all services which are solely religious,
122 spiritual, or ecclesiastical in nature.

123 (9) Facilities licensed under chapter 393 which, in
124 addition to providing services to persons with developmental
125 disabilities, also provide services to persons developmentally

126 | at risk as a consequence of exposure to alcohol or other legal
127 | or illegal drugs while in utero.

128 | (10) DUI education and screening services provided
129 | pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.
130 | Persons or entities providing treatment services must be
131 | licensed under this chapter unless exempted from licensing as
132 | provided in this section.

133 | (11) A facility licensed under s. 394.875 as a crisis
134 | stabilization unit.

135 |
136 | The exemptions from licensure in subsections (3), (4), (8), (9),
137 | and (10) ~~this section~~ do not apply to any service provider that
138 | receives an appropriation, grant, or contract from the state to
139 | operate as a service provider as defined in this chapter or to
140 | any substance abuse program regulated under ~~pursuant to~~ s.
141 | 397.4014. Furthermore, this chapter may not be construed to
142 | limit the practice of a physician or physician assistant
143 | licensed under chapter 458 or chapter 459, a psychologist
144 | licensed under chapter 490, a psychotherapist licensed under
145 | chapter 491, or an advanced practice registered nurse licensed
146 | under part I of chapter 464, who provides substance abuse
147 | treatment, so long as the physician, physician assistant,
148 | psychologist, psychotherapist, or advanced practice registered
149 | nurse does not represent to the public that he or she is a
150 | licensed service provider and does not provide services to

151 individuals under ~~pursuant to~~ part V of this chapter. Failure to
152 comply with any requirement necessary to maintain an exempt
153 status under this section is a misdemeanor of the first degree,
154 punishable as provided in s. 775.082 or s. 775.083.

155 Section 5. Subsection (14) of section 916.106, Florida
156 Statutes, is amended to read:

157 916.106 Definitions.—For the purposes of this chapter, the
158 term:

159 (14) "Mental illness" means an impairment of the emotional
160 processes that exercise conscious control of one's actions, or
161 of the ability to perceive or understand reality, which
162 impairment substantially interferes with the defendant's ability
163 to meet the ordinary demands of living. For the purposes of this
164 chapter, the term does not apply to defendants who have only an
165 intellectual disability or autism or a defendant with traumatic
166 brain injury or dementia who lacks a co-occurring mental
167 illness, and does not include intoxication or conditions
168 manifested only by antisocial behavior or substance abuse
169 impairment.

170 Section 6. Subsection (2) of section 916.13, Florida
171 Statutes, is amended to read:

172 916.13 Involuntary commitment of defendant adjudicated
173 incompetent.—

174 (2) A defendant who has been charged with a felony and who
175 has been adjudicated incompetent to proceed due to mental

176 illness, and who meets the criteria for involuntary commitment
177 under this chapter, may be committed to the department, and the
178 department shall retain and treat the defendant.

179 (a) Immediately after receipt of a completed copy of the
180 court commitment order containing all documentation required by
181 the applicable Florida Rules of Criminal Procedure, the
182 department shall request all medical information relating to the
183 defendant from the jail. The jail shall provide the department
184 with all medical information relating to the defendant within 3
185 business days after receipt of the department's request or at
186 the time the defendant enters the physical custody of the
187 department, whichever is earlier.

188 (b)1. To ensure continuity of care when a defendant
189 returns to jail, the facility physician shall consult with the
190 jail physician regarding the jail's drug formulary and consider
191 prescribing medication included in the jail's drug formulary
192 when the facility physician prescribes psychotropic medications
193 to the defendant.

194 2. Each defendant returning to a jail shall continue to
195 receive the same psychotropic medications as prescribed by the
196 facility physician at the time of discharge from a forensic or
197 civil facility, unless the jail physician determines there is a
198 compelling medical reason to change or discontinue the
199 medication. If the jail physician changes or discontinues the
200 medication and the defendant is later determined at the

201 competency hearing to be incompetent to stand trial and is
202 recommitted to the department, the jail physician may not change
203 or discontinue the defendant's prescribed psychotropic
204 medication upon the defendant's next discharge from the forensic
205 or civil facility.

206 (c) ~~(a)~~ Within 6 months after the date of admission and at
207 the end of any period of extended commitment, or at any time the
208 administrator or designee determines that the defendant has
209 regained competency to proceed or no longer meets the criteria
210 for continued commitment, the administrator or designee shall
211 file a report with the court pursuant to the applicable Florida
212 Rules of Criminal Procedure.

213 (d) ~~(b)~~ A competency hearing shall be held within 30 days
214 after the court receives notification that the defendant is
215 competent to proceed or no longer meets the criteria for
216 continued commitment. The defendant must be transported to the
217 committing court's jurisdiction for the hearing.

218 Section 7. Subsection (3) of section 916.15, Florida
219 Statutes, is amended to read:

220 916.15 Involuntary commitment of defendant adjudicated not
221 guilty by reason of insanity.—

222 (3) (a) Every defendant acquitted of criminal charges by
223 reason of insanity and found to meet the criteria for
224 involuntary commitment may be committed and treated in
225 accordance with the provisions of this section and the

226 applicable Florida Rules of Criminal Procedure.

227 (b) Immediately after receipt of a completed copy of the
228 court commitment order containing all documentation required by
229 the applicable Florida Rules of Criminal Procedure, the
230 department shall request all medical information relating to the
231 defendant from the jail. The jail shall provide the department
232 with all medical information relating to the defendant within 3
233 business days after receipt of the department's request or at
234 the time the defendant enters the physical custody of the
235 department, whichever is earlier.

236 (c)1. The department shall admit a defendant so
237 adjudicated to an appropriate facility or program for treatment
238 and shall retain and treat such defendant. To ensure continuity
239 of care when a defendant returns to jail, the facility physician
240 shall consult with the jail physician regarding the jail's drug
241 formulary and consider prescribing medication included in the
242 jail's drug formulary when the facility physician prescribes
243 psychotropic medications to the defendant.

244 2. Each defendant returning to a jail shall continue to
245 receive the same psychotropic medications as prescribed by the
246 facility physician at the time of discharge from a forensic or
247 civil facility, unless the jail physician determines there is a
248 compelling medical reason to change or discontinue the
249 medication. If the jail physician changes or discontinues the
250 medication and the defendant is later determined at the

251 competency hearing to be incompetent to stand trial and is
252 recommitted to the department, the jail physician may not change
253 or discontinue the defendant's prescribed psychotropic
254 medication upon the defendant's next discharge from the forensic
255 or civil facility.

256 (d) No later than 6 months after the date of admission,
257 before ~~prior to~~ the end of any period of extended commitment, or
258 at any time the administrator or designee determines ~~shall have~~
259 ~~determined~~ that the defendant no longer meets the criteria for
260 continued commitment placement, the administrator or designee
261 shall file a report with the court pursuant to the applicable
262 Florida Rules of Criminal Procedure.

263 Section 8. This act shall take effect July 1, 2020.