

By Senator Harrell

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1                   A bill to be entitled  
2       An act relating to substance abuse services; amending  
3       s. 397.4073, F.S.; specifying that certified recovery  
4       residence administrators and certain persons  
5       associated with certified recovery residences are  
6       subject to certain background screenings; requiring,  
7       rather than authorizing, the exemption from  
8       disqualification from employment for certain substance  
9       abuse service provider personnel; amending s. 397.487,  
10      F.S.; deleting a provision relating to background  
11      screenings for certain persons associated with  
12      applicant recovery residences; amending s. 397.4872,  
13      F.S.; deleting provisions relating to exemptions from  
14      disqualification for certain persons associated with  
15      recovery residences; amending s. 817.505, F.S.;  
16      revising provisions relating to payment practices  
17      exempt from prohibitions on patient brokering;  
18      amending ss. 397.4871 and 435.07, F.S.; conforming  
19      provisions to changes made by the act; providing an  
20      effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. Paragraph (a) of subsection (1) and paragraph  
25      (b) of subsection (4) of section 397.4073, Florida Statutes, are  
26      amended to read:

27       397.4073 Background checks of service provider personnel.—

28       (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
29      EXCEPTIONS.—

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30 (a) For all individuals screened on or after July 1, 2020  
31 ~~2019~~, background checks shall apply as follows:

32 1. All owners, directors, chief financial officers, and  
33 clinical supervisors of service providers are subject to level 2  
34 background screening as provided under s. 408.809 and chapter  
35 435. Inmate substance abuse programs operated directly or under  
36 contract with the Department of Corrections are exempt from this  
37 requirement.

38 2. All service provider personnel who have direct contact  
39 with children receiving services or with adults who are  
40 developmentally disabled receiving services are subject to level  
41 2 background screening as provided under s. 408.809 and chapter  
42 435.

43 3. All peer specialists who have direct contact with  
44 individuals receiving services are subject to level 2 background  
45 screening as provided under s. 408.809 and chapter 435.

46 4. All certified recovery residence owners, directors,  
47 chief financial officers, and certified recovery residence  
48 administrators are subject to level 2 background screening as  
49 provided under s. 408.809 and chapter 435.

50 (4) EXEMPTIONS FROM DISQUALIFICATION.—

51 (b) Since rehabilitated substance abuse impaired persons  
52 are effective in the successful treatment and rehabilitation of  
53 individuals with substance use disorders, for service providers  
54 which treat adolescents 13 years of age and older, service  
55 provider personnel whose background checks indicate crimes under  
56 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.  
57 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related  
58 criminal attempt, solicitation, or conspiracy under s. 777.04,

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59 shall ~~may~~ be exempted from disqualification from employment  
60 pursuant to this paragraph.

61 Section 2. Subsection (6) of section 397.487, Florida  
62 Statutes, is amended to read:

63 397.487 Voluntary certification of recovery residences.—

64 ~~(6) All owners, directors, and chief financial officers of~~  
65 ~~an applicant recovery residence are subject to level 2~~  
66 ~~background screening as provided under s. 408.809 and chapter~~  
67 ~~435. A recovery residence is ineligible for certification, and a~~  
68 ~~credentialing entity shall deny a recovery residence's~~  
69 ~~application, if any owner, director, or chief financial officer~~  
70 ~~has been found guilty of, or has entered a plea of guilty or~~  
71 ~~nolo contendere to, regardless of adjudication, any offense~~  
72 ~~listed in s. 408.809(4) or s. 435.04(2) unless the department~~  
73 ~~has issued an exemption under s. 397.4073 or s. 397.4872. In~~  
74 ~~accordance with s. 435.04, the department shall notify the~~  
75 ~~credentialing agency of an owner's, director's, or chief~~  
76 ~~financial officer's eligibility based on the results of his or~~  
77 ~~her background screening.~~

78 Section 3. Section 397.4872, Florida Statutes, is amended  
79 to read:

80 397.4872 ~~Exemption from disqualification;~~ Publication.—

81 ~~(1) Individual exemptions to staff disqualification or~~  
82 ~~administrator ineligibility may be requested if a recovery~~  
83 ~~residence deems the decision will benefit the program. Requests~~  
84 ~~for exemptions must be submitted in writing to the department~~  
85 ~~within 20 days after the denial by the credentialing entity and~~  
86 ~~must include a justification for the exemption.~~

87 ~~(2) The department may exempt a person from ss. 397.487(6)~~

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88 and ~~397.4871(5)~~ if it has been at least 3 years since the person  
89 has completed or been lawfully released from confinement,  
90 supervision, or sanction for the disqualifying offense. An  
91 exemption from the disqualifying offenses may not be given under  
92 any circumstances for any person who is a:

93       ~~(a) Sexual predator pursuant to s. 775.21;~~  
94       ~~(b) Career offender pursuant to s. 775.261; or~~  
95       ~~(c) Sexual offender pursuant to s. 943.0435, unless the~~  
96 ~~requirement to register as a sexual offender has been removed~~  
97 ~~pursuant to s. 943.04354.~~

98       ~~(3)~~ By April 1, 2016, each credentialing entity shall  
99 submit a list to the department of all recovery residences and  
100 recovery residence administrators certified by the credentialing  
101 entity that hold a valid certificate of compliance. Thereafter,  
102 the credentialing entity must notify the department within 3  
103 business days after a new recovery residence or recovery  
104 residence administrator is certified or a recovery residence or  
105 recovery residence administrator's certificate expires or is  
106 terminated. The department shall publish on its website a list  
107 of all recovery residences that hold a valid certificate of  
108 compliance. The department shall also publish on its website a  
109 list of all recovery residence administrators who hold a valid  
110 certificate of compliance. A recovery residence or recovery  
111 residence administrator shall be excluded from the list upon  
112 written request to the department by the listed individual or  
113 entity.

114       Section 4. Paragraph (a) of subsection (3) of section  
115 817.505, Florida Statutes, is amended to read:

116       817.505 Patient brokering prohibited; exceptions;

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117 penalties.—

118 (3) This section shall not apply to the following payment  
119 practices:

120 (a) Any discount, payment, waiver of payment, or payment  
121 practice not prohibited ~~expressly authorized~~ by 42 U.S.C. s.  
122 1320a-7b(b) ~~42 U.S.C. s. 1320a-7b(b)(3)~~ or regulations  
123 promulgated ~~adopted~~ thereunder regardless of whether such  
124 discount, payment, waiver of payment, or payment practice  
125 involves items or services for which payment may be made in  
126 whole or in part under federal health care programs as defined  
127 in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July  
128 1, 2020.

129 Section 5. Subsection (5) of section 397.4871, Florida  
130 Statutes, is amended to read:

131 397.4871 Recovery residence administrator certification.—

132 (5) All applicants are subject to level 2 background  
133 screening as provided under chapter 435. An applicant is  
134 ineligible, and a credentialing entity shall deny the  
135 application, if the applicant has been found guilty of, or has  
136 entered a plea of guilty or nolo contendere to, regardless of  
137 adjudication, any offense listed in s. 408.809 or s. 435.04(2)  
138 unless the department has issued an exemption under s. 397.4073  
139 or s. 435.07 ~~s. 397.4872~~. In accordance with s. 435.04, the  
140 department shall notify the credentialing agency of the  
141 applicant's eligibility based on the results of his or her  
142 background screening.

143 Section 6. Subsection (2) of section 435.07, Florida  
144 Statutes, is amended to read:

145 435.07 Exemptions from disqualification.—Unless otherwise

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146 provided by law, the provisions of this section apply to  
147 exemptions from disqualification for disqualifying offenses  
148 revealed pursuant to background screenings required under this  
149 chapter, regardless of whether those disqualifying offenses are  
150 listed in this chapter or other laws.

151 (2) Persons employed, or applicants for employment, by  
152 treatment providers who treat adolescents 13 years of age and  
153 older who are disqualified from employment solely because of  
154 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.  
155 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any  
156 related criminal attempt, solicitation, or conspiracy under s.  
157 777.04, shall ~~may~~ be exempted from disqualification from  
158 employment pursuant to this chapter without application of the  
159 waiting period in subparagraph (1)(a)1.

160 Section 7. This act shall take effect July 1, 2020.