

By the Committees on Appropriations; and Children, Families, and Elder Affairs; and Senator Harrell

576-04273-20

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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; revising eligibility
10 for exemption from disqualification from employment
11 for such personnel; amending s. 397.487, F.S.;
12 deleting a provision relating to background screenings
13 for certain persons associated with applicant recovery
14 residences; amending s. 397.4872, F.S.; deleting
15 provisions relating to exemptions from
16 disqualification for certain persons associated with
17 recovery residences; amending s. 397.4873, F.S.;
18 providing criminal penalties for violations relating
19 to recovery residence patient referrals; amending s.
20 817.505, F.S.; revising provisions relating to payment
21 practices exempt from prohibitions on patient
22 brokering; amending ss. 397.4871 and 435.07, F.S.;
23 conforming provisions to changes made by the act;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. Paragraph (a) of subsection (1) and paragraph
29 (b) of subsection (4) of section 397.4073, Florida Statutes, are

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30 amended to read:

31 397.4073 Background checks of service provider personnel.-

32 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
33 EXCEPTIONS.-

34 (a) For all individuals screened on or after July 1, 2020
35 ~~2019~~, background checks shall apply as follows:

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

42 2. All service provider personnel who have direct contact
43 with children receiving services or with adults who are
44 developmentally disabled receiving services are subject to level
45 2 background screening as provided under s. 408.809 and chapter
46 435.

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

50 4. All certified recovery residence owners, directors,
51 chief financial officers, and certified recovery residence
52 administrators are subject to level 2 background screening as
53 provided under s. 408.809 and chapter 435.

54 (4) EXEMPTIONS FROM DISQUALIFICATION.-

55 (b) Since rehabilitated substance abuse impaired persons
56 are effective in the successful treatment and rehabilitation of
57 individuals with substance use disorders, for service providers
58 which treat adolescents 13 years of age and older, service

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59 provider personnel whose background checks indicate crimes under
60 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
61 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related
62 criminal attempt, solicitation, or conspiracy under s. 777.04,
63 shall may be exempted from disqualification from employment
64 pursuant to this paragraph, provided that 5 years or more, or,
65 in the case of a peer specialist certified pursuant to s.
66 397.417, 3 years or more, have elapsed since the applicant for
67 an exemption from disqualification has completed or has been
68 lawfully released from confinement, supervision, or a
69 nonmonetary condition imposed by a court for the applicant's
70 most recent disqualifying offense under this subsection and the
71 applicant for exemption has not been arrested for any criminal
72 offense within the past 3 years.

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

75 397.487 Voluntary certification of recovery residences.—

76 ~~(6) All owners, directors, and chief financial officers of~~
77 ~~an applicant recovery residence are subject to level 2~~
78 ~~background screening as provided under s. 408.809 and chapter~~
79 ~~435. A recovery residence is ineligible for certification, and a~~
80 ~~credentialing entity shall deny a recovery residence's~~
81 ~~application, if any owner, director, or chief financial officer~~
82 ~~has been found guilty of, or has entered a plea of guilty or~~
83 ~~nolo contendere to, regardless of adjudication, any offense~~
84 ~~listed in s. 408.809(4) or s. 435.04(2) unless the department~~
85 ~~has issued an exemption under s. 397.4073 or s. 397.4872. In~~
86 ~~accordance with s. 435.04, the department shall notify the~~
87 ~~credentialing agency of an owner's, director's, or chief~~

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88 ~~financial officer's eligibility based on the results of his or~~
89 ~~her background screening.~~

90 Section 3. Section 397.4872, Florida Statutes, is amended
91 to read:

92 397.4872 ~~Exemption from disqualification;~~ Publication.—

93 ~~(1) Individual exemptions to staff disqualification or~~
94 ~~administrator ineligibility may be requested if a recovery~~
95 ~~residence deems the decision will benefit the program. Requests~~
96 ~~for exemptions must be submitted in writing to the department~~
97 ~~within 20 days after the denial by the credentialing entity and~~
98 ~~must include a justification for the exemption.~~

99 ~~(2) The department may exempt a person from ss. 397.487(6)~~
100 ~~and 397.4871(5) if it has been at least 3 years since the person~~
101 ~~has completed or been lawfully released from confinement,~~
102 ~~supervision, or sanction for the disqualifying offense. An~~
103 ~~exemption from the disqualifying offenses may not be given under~~
104 ~~any circumstances for any person who is a:~~

105 ~~(a) Sexual predator pursuant to s. 775.21;~~

106 ~~(b) Career offender pursuant to s. 775.261; or~~

107 ~~(c) Sexual offender pursuant to s. 943.0435, unless the~~
108 ~~requirement to register as a sexual offender has been removed~~
109 ~~pursuant to s. 943.04354.~~

110 ~~(3) By April 1, 2016, each credentialing entity shall~~
111 ~~submit a list to the department of all recovery residences and~~
112 ~~recovery residence administrators certified by the credentialing~~
113 ~~entity that hold a valid certificate of compliance. Thereafter,~~
114 ~~the credentialing entity must notify the department within 3~~
115 ~~business days after a new recovery residence or recovery~~
116 ~~residence administrator is certified or a recovery residence or~~

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117 recovery residence administrator's certificate expires or is
118 terminated. The department shall publish on its website a list
119 of all recovery residences that hold a valid certificate of
120 compliance. The department shall also publish on its website a
121 list of all recovery residence administrators who hold a valid
122 certificate of compliance. A recovery residence or recovery
123 residence administrator shall be excluded from the list upon
124 written request to the department by the listed individual or
125 entity.

126 Section 4. Present subsections (4), (5), and (6) of section
127 397.4873, Florida Statutes, are redesignated as subsections (5),
128 (6), and (7), respectively, a new subsection (4) is added to
129 that section, and subsection (1) of that section is republished,
130 to read:

131 397.4873 Referrals to or from recovery residences;
132 prohibitions; penalties.—

133 (1) A service provider licensed under this part may not
134 make a referral of a prospective, current, or discharged patient
135 to, or accept a referral of such a patient from, a recovery
136 residence unless the recovery residence holds a valid
137 certificate of compliance as provided in s. 397.487 and is
138 actively managed by a certified recovery residence administrator
139 as provided in s. 397.4871.

140 (4) In addition to any other punishment provided by law,
141 any person who willfully and knowingly violates subsection (1)
142 commits a misdemeanor of the first degree, punishable as
143 provided in s. 775.082 or s. 775.083.

144 Section 5. Paragraph (a) of subsection (3) of section
145 817.505, Florida Statutes, is amended to read:

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146 817.505 Patient brokering prohibited; exceptions;
147 penalties.—

148 (3) This section shall not apply to the following payment
149 practices:

150 (a) Any discount, payment, waiver of payment, or payment
151 practice not prohibited ~~expressly authorized~~ by 42 U.S.C. s.
152 1320a-7b(b) ~~42 U.S.C. s. 1320a-7b(b) (3)~~ or regulations
153 promulgated ~~adopted~~ thereunder, regardless of whether such
154 discount, payment, waiver of payment, or payment practice
155 involves items or services for which payment may be made in
156 whole or in part under federal health care programs as defined
157 in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July
158 1, 2020.

159 Section 6. Subsection (5) of section 397.4871, Florida
160 Statutes, is amended to read:

161 397.4871 Recovery residence administrator certification.—

162 (5) All applicants are subject to level 2 background
163 screening as provided under chapter 435. An applicant is
164 ineligible, and a credentialing entity shall deny the
165 application, if the applicant has been found guilty of, or has
166 entered a plea of guilty or nolo contendere to, regardless of
167 adjudication, any offense listed in s. 408.809 or s. 435.04(2)
168 unless the department has issued an exemption under s. 397.4073
169 or s. 435.07 ~~s. 397.4872~~. In accordance with s. 435.04, the
170 department shall notify the credentialing agency of the
171 applicant's eligibility based on the results of his or her
172 background screening.

173 Section 7. Subsection (2) of section 435.07, Florida
174 Statutes, is amended to read:

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

181 (2) Persons employed, or applicants for employment, by
182 treatment providers who treat adolescents 13 years of age and
183 older who are disqualified from employment solely because of
184 crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s.
185 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any
186 related criminal attempt, solicitation, or conspiracy under s.
187 777.04, shall ~~may~~ be exempted from disqualification from
188 employment pursuant to this chapter, provided that 5 years or
189 more, or, in the case of a certified peer specialist pursuant to
190 s. 397.417, 3 years or more, have elapsed since the applicant
191 for an exemption from disqualification has completed or has been
192 lawfully released from confinement, supervision, or a
193 nonmonetary condition imposed by a court for the applicant's
194 most recent disqualifying offense under this subsection and the
195 applicant for exemption has not been arrested for any criminal
196 offense within the past 3 years ~~without application of the~~
197 ~~waiting period in subparagraph (1)(a)1.~~

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