

20201120er

1
2 An act relating to substance abuse services; amending
3 s. 397.4073, F.S.; requiring, rather than authorizing,
4 an exemption from disqualification from employment for
5 certain substance abuse service provider personnel
6 under certain circumstances; providing that certain
7 persons may be granted such exemption without a
8 waiting period under certain circumstances; amending
9 ss. 397.487 and 397.4871, F.S.; conforming cross-
10 references to changes made by the act; amending s.
11 397.4872, F.S.; removing the authority of the
12 Department of Children and Families to grant
13 exemptions from disqualification under ch. 397, F.S.,
14 under certain circumstances; removing an obsolete
15 provision; amending s. 397.4873, F.S.; providing
16 criminal penalties for violations relating to recovery
17 residence patient referrals; amending s. 817.505,
18 F.S.; revising provisions relating to payment
19 practices exempt from prohibitions on patient
20 brokering; providing an effective date.

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

23
24 Section 1. Paragraph (b) of subsection (4) of section
25 397.4073, Florida Statutes, is amended to read:

26 397.4073 Background checks of service provider personnel.—

27 (4) EXEMPTIONS FROM DISQUALIFICATION.—

28 (b) ~~Since rehabilitated substance abuse impaired persons~~
29 ~~are effective in the successful treatment and rehabilitation of~~

20201120er

30 ~~individuals with substance use disorders,~~ For service providers
31 ~~that which~~ treat adolescents 13 years of age and older, service
32 provider personnel whose background checks indicate crimes under
33 s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s.
34 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related
35 criminal attempt, solicitation, or conspiracy under s. 777.04:7

36 1. Shall ~~may~~ be exempted from disqualification from
37 employment for such offenses pursuant to this paragraph if:

38 a. At least 5 years, or at least 3 years in the case of an
39 individual seeking certification as a peer specialist under s.
40 397.417, have elapsed since the applicant requesting an
41 exemption has completed or has been lawfully released from any
42 confinement, supervision, or nonmonetary condition imposed by a
43 court for the applicant's most recent disqualifying offense
44 under this paragraph.

45 b. The applicant for an exemption has not been arrested for
46 any offense during the 5 years, or 3 years in the case of a peer
47 specialist, before the request for exemption.

48 2. May be exempted from disqualification from employment
49 for such offenses without a waiting period as provided under s.
50 435.07(2).

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

53 397.487 Voluntary certification of recovery residences.—

54 (6) All owners, directors, and chief financial officers of
55 an applicant recovery residence are subject to level 2
56 background screening as provided under s. 408.809 and chapter
57 435. A recovery residence is ineligible for certification, and a
58 credentialing entity shall deny a recovery residence's

20201120er

59 application, if any owner, director, or chief financial officer
60 has been found guilty of, or has entered a plea of guilty or
61 nolo contendere to, regardless of adjudication, any offense
62 listed in s. 408.809(4) or s. 435.04(2) unless the department
63 has issued an exemption under s. 435.07 ~~s. 397.4073 or s.~~
64 ~~397.4872~~. In accordance with s. 435.04, the department shall
65 notify the credentialing agency of an owner's, director's, or
66 chief financial officer's eligibility based on the results of
67 his or her background screening.

68 Section 3. Subsection (5) of section 397.4871, Florida
69 Statutes, is amended to read:

70 397.4871 Recovery residence administrator certification.—

71 (5) All applicants are subject to level 2 background
72 screening as provided under chapter 435. An applicant is
73 ineligible, and a credentialing entity shall deny the
74 application, if the applicant has been found guilty of, or has
75 entered a plea of guilty or nolo contendere to, regardless of
76 adjudication, any offense listed in s. 408.809 or s. 435.04(2)
77 unless the department has issued an exemption under s. 435.07 ~~s.~~
78 ~~397.4872~~. In accordance with s. 435.04, the department shall
79 notify the credentialing agency of the applicant's eligibility
80 based on the results of his or her background screening.

81 Section 4. Subsections (2) and (3) of section 397.4872,
82 Florida Statutes, are amended to read:

83 397.4872 Exemption from disqualification; publication.—

84 ~~(2) The department may exempt a person from ss. 397.487(6)~~
85 ~~and 397.4871(5) if it has been at least 3 years since the person~~
86 ~~has completed or been lawfully released from confinement,~~
87 ~~supervision, or sanction for the disqualifying offense. An~~

20201120er

88 ~~exemption from the disqualifying offenses may not be given under~~
89 ~~any circumstances for any person who is a:~~

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

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

92 ~~(c) Sexual offender pursuant to s. 943.0435, unless the~~
93 ~~requirement to register as a sexual offender has been removed~~
94 ~~pursuant to s. 943.04354.~~

95 ~~(2)(3) By April 1, 2016, each credentialing entity shall~~
96 ~~submit a list to the department of all recovery residences and~~
97 ~~recovery residence administrators certified by the credentialing~~
98 ~~entity that hold a valid certificate of compliance. Thereafter,~~
99 The credentialing entity must notify the department within 3
100 business days after a new recovery residence or recovery
101 residence administrator is certified or a recovery residence or
102 recovery residence administrator's certificate expires or is
103 terminated. The department shall publish on its website a list
104 of all recovery residences that hold a valid certificate of
105 compliance. The department shall also publish on its website a
106 list of all recovery residence administrators who hold a valid
107 certificate of compliance. A recovery residence or recovery
108 residence administrator shall be excluded from the list upon
109 written request to the department by the listed individual or
110 entity.

111 Section 5. Present subsections (4), (5), and (6) of section
112 397.4873, Florida Statutes, are redesignated as subsections (5),
113 (6), and (7), respectively, a new subsection (4) is added to
114 that section, and subsection (1) of that section is republished,
115 to read:

116 397.4873 Referrals to or from recovery residences;

20201120er

117 prohibitions; penalties.—

118 (1) A service provider licensed under this part may not
119 make a referral of a prospective, current, or discharged patient
120 to, or accept a referral of such a patient from, a recovery
121 residence unless the recovery residence holds a valid
122 certificate of compliance as provided in s. 397.487 and is
123 actively managed by a certified recovery residence administrator
124 as provided in s. 397.4871.

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

129 Section 6. Paragraph (a) of subsection (3) of section
130 817.505, Florida Statutes, is amended to read:

131 817.505 Patient brokering prohibited; exceptions;
132 penalties.—

133 (3) This section shall not apply to the following payment
134 practices:

135 (a) Any discount, payment, waiver of payment, or payment
136 practice not prohibited ~~expressly authorized~~ by 42 U.S.C. s.
137 1320a-7b(b) ~~42 U.S.C. s. 1320a-7b(b)(3)~~ or regulations
138 promulgated ~~adopted~~ thereunder.

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