

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 1010

INTRODUCER: Committee on Children, Families, and Elder Affairs and Senator Gruters

SUBJECT: Substance Abuse and Mental Health Services

DATE: March 21, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	Fav/CS
2.			AHS	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1010 makes several changes to provisions governing the licensure and regulation of substance abuse treatment programs and providers, including recovery residences and recovery residence administrators.

Specifically, the bill:

- Specifies that the onsite inspections performed by credentialing entities following receipt of a recovery residence's completed application for certification must be done specifically to determine whether the applicant meets established certification requirements;
- Increases, from 30 days to 90 days, the amount of time a recovery residence has to retain a new certified recovery residence administrator (CRRA) following the termination, resignation, or removal for any reason of the previous CRRA.
- Requires credentialing entities to initiate suspension, denial, and revocation actions against certified recovery residences through a formal written notice provided to the recovery residence;
- Requires credentialing entities to provide certified recovery residences with formal written notice and 90 days to cure alleged deficiencies unless the alleged deficiency is an immediate threat to the health, life, or safety of a resident or residents;
- Requires credentialing entities to allow recovery residences to participate in all proceedings conducted by the entities regarding the issues raised in the formal written notice;
- Requires the credentialing entities to issue a formal written notice of its final decision after the conclusion of such proceedings;

- Allows a recovery residence to request an administrative hearing within 30 days after the recovery residence received formal written notice of an adverse action taken by a credentialing entity;
- Requires the credentialing agency to keep specified written records and make such records available to the Division of Administrative Hearings upon request; and
- Expands the total number of residents a CRRA of a certified recovery residence may manage under certain conditions.

The bill will likely have a positive fiscal impact on private licensed service providers. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Substance Use Disorder Treatment

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.¹ According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.² SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.³ Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.⁴ Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.⁵

In 2021, approximately 46.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year.⁶ The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids,

¹ The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; (last visited March 15, 2023); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 8, 2023).

² The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited March 15, 2023).

³ The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, <http://www.samhsa.gov/disorders/substance-use> (last visited March 15, 2023).

⁴ The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited March 15, 2023).

⁵ *Id.*

⁶ The SAMHSA, *Highlights for the 2021 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/2022-12/2021NSDUHFFRHighlights092722.pdf> (last visited March 15, 2023).

hallucinogens, and stimulants.⁷ Provisional data from the CDC's National Center for Health Statistics indicate there were an estimated 107,622 drug overdose deaths in the United States during 2021 (the last year for which there is complete data), an increase of nearly 15% from the 93,655 deaths estimated in 2020.⁸

Substance Use Disorder Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.⁹ The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.¹⁰ Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.¹¹ However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.¹² In 1993, legislation was adopted to combine chs. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).¹³

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.¹⁴ However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.¹⁵ As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.¹⁶

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.¹⁷ The DCF provides treatment for SUD through a community-based

⁷ The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited March 15, 2023).

⁸ The Center for Disease Control and Prevention, National Center for Health Statistics, *U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020 – But Are Still Up 15%*, available at https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm (last visited March 15, 2023).

⁹ The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

¹⁴ *See* s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

¹⁵ Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited March 15, 2023) (hereinafter cited as “Fundamentals of the Marchman Act”).

¹⁶ *Id.*

¹⁷ *See* chs. 394 and 397, F.S.

provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.¹⁸

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.¹⁹
- **Treatment Services:** Treatment services²⁰ include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.²¹
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.²²

Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and Rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention,²³ intervention,²⁴ and clinical treatment services.²⁵

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.²⁶ “Clinical treatment services” include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.

¹⁸ The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited March 15, 2023).

¹⁹ *Id.*

²⁰ *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

²¹ *Id.*

²² *Id.*

²³ Section 397.311(26)(c), F.S. “Prevention” is defined as “a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles”. Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments. *See also*, The DCF, *Substance Abuse: Prevention*, available at <https://www.myflfamilies.com/service-programs/samh/prevention/index.shtml> (last visited March 15, 2023).

²⁴ Section 397.311(26)(b), F.S. “Intervention” is defined as “structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.”

²⁵ Section 397.311(26), F.S.

²⁶ Section 397.311(26)(a), F.S.

- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.
- Outpatient treatment.
- Residential treatment.²⁷

Florida does not license recovery residences; instead, in 2015 the Legislature enacted sections 397.487–397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.²⁸

Recovery Residences

Recovery residences (also known as “sober homes” or “sober living homes”) are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs.²⁹ These residences offer no formal treatment and are, in some cases, self-funded through resident fees.³⁰

A recovery residence is defined as “a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.”³¹

Voluntary Certification of Recovery Residences and Administrators in Florida

Florida utilizes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.³² Under the voluntary certification program, the DCF has approved two credentialing entities to design the certification programs and issue certificates: the Florida Association of Recovery Residences certifies the recovery residences and the Florida Certification Board (the FCB) certifies recovery residence administrators.³³

Credentialing entities must require prospective recovery residences to submit the following documents with a completed application and fee:

²⁷ *Id.*

²⁸ Chapter 2015-100, L.O.F.

²⁹ The SAMSHA, *Recovery Housing: Best Practices and Suggested Guidelines*, p. 2, available at <https://www.samhsa.gov/sites/default/files/housing-best-practices-100819.pdf> (last visited March 15, 2023).

³⁰ However, these homes may mandate or strongly encourage attendance at 12-step groups. The Society for Community Research and Action, *Statement on Recovery Residences: The Role of Recovery Residences in Promoting Long-term Addiction Recovery*, available at <https://www.scra27.org/what-we-do/policy/policy-position-statements/statement-recovery-residences-addiction/> (last visited March 15, 2023).

³¹ Section 397.311(38), F.S.

³² Sections 397.487–397.4872, F.S.

³³ The DCF, *Recovery Residence Administrators and Recovery Residences*, available at <https://www.myflfamilies.com/service-programs/samh/recovery-residence/> (last visited March 15, 2023).

- A policy and procedures manual containing:
 - Job descriptions for all staff positions;
 - Drug-testing procedures and requirements;
 - A prohibition on the premises against alcohol, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed;
 - Policies to support a resident’s recovery efforts; and
 - A good neighbor policy to address neighborhood concerns and complaints.
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.³⁴

Certified Recovery Residence Administrators

All certified recovery residences must be actively managed by a certified recovery residence administrator (CRRA).³⁵ CRRAs are individuals responsible for the overall management of a recovery residence, as well as the supervision of residents and paid or volunteer staff.³⁶ Prior to obtaining certification, CRRA applicants must successfully undergo a level 2 background screening pursuant to ch. 435, F.S.³⁷ Additionally, the FCB currently requires CRRAs to:

- Hold at least a high school diploma, GED, or equivalent;
- Undergo 10 hours of on-the-job supervision of the applicant’s performance of related recovery residence administrator, manager, or residential management services within a recovery residence setting;
- Obtain three professional letters of recommendation;
- Pass an exam administered by the FCB;
- Complete 10 hours of continuing education annually; and
- Apply for certification renewal annually.³⁸

CRRAs are prohibited from engaging in any of the following activities:

³⁴ Section 397.487(3), F.S.

³⁵ Section 397.487(5), F.S.

³⁶ The Florida Certification Board (The FCB), *Certified Recovery Residence Administrator (CRRA)*, available at <https://flcertificationboard.org/certifications/certified-recovery-residence-administrator/> (last visited March 16, 2023).

³⁷ Section 397.4871(5), F.S.

³⁸ The FCB, *Certification Guidelines: Credential Standards and Requirements Table: Certified Recovery Residence Administrator (CRRA)*, p. 4-5, available at <https://flcertificationboard.org/wp-content/uploads/CRRA-Standards-and-Requirements-Tables-January-2020.pdf> (last visited March 16, 2023).

- Failing to adhere to continuing education requirements of the credentialing entity;³⁹
- Providing false or misleading information to the credentialing entity at any time;⁴⁰
- Advertising himself or herself to the public as a “certified recovery residence administrator” without first obtaining certification;⁴¹ and
- Actively managing more than 50 residents at any given time, unless written justification is provided to, and approved by, the credentialing entity as to how the administrator is able to effectively and appropriately respond to the needs of the residents, to maintain residence standards, and to meet the residence certification requirements of this section. However, a certified recovery residence administrator may not actively manage more than 100 residents at any given time.⁴²

III. Effect of Proposed Changes:

The bill amends s. 397.487, F.S., specifying that the onsite inspections performed by credentialing entities following receipt of a recovery residence’s completed application for certification must be done specifically to determine whether the applicant meets established certification requirements. The bill requires periodic, rather than follow-up as under current law, onsite monitoring of a recovery residence by a credentialing entity following certification in order to ensure ongoing compliance with certification requirements. The bill prevents credentialing entities from suspending or revoking a certification without first making a written determination that a recovery residence is not in compliance with any certification requirement or has failed to timely remedy any identified deficiency.

The bill increases, from 30 to 90, the number of days a certified recovery residence has to retain a new CRRA after a previous CRRA is terminated, resigns, or leaves the position for any other reason. The bill clarifies that credentialing entities must initiate formal proceedings in order to revoke a recovery residence’s certification. The bill requires credentialing entities to provide certified recovery residences with formal written notice and 90 days to cure alleged deficiencies unless the alleged deficiency is an immediate threat to the health, life, or safety of a resident or residents. It allows credentialing entities to proceed with formal proceedings against a recovery residence if such deficiencies are not cured within 90 days, and requires credentialing entities to allow a recovery residence to participate in all proceedings conducted by the credentialing entity regarding the issues raised in the formal written notice, and requires the credentialing entity to issue a formal written notice of its final decision after the conclusion of such proceedings.

The bill also changes the process for requesting a formal administrative hearing pursuant to ss. 120.569 and 120.57, F.S., by requiring recovery residences to request a hearing within 30 days after final action is taken, rather than after completing any appeals process offered by, the credentialing entity or the DCF, as applicable. The bill also requires credentialing entities to keep

³⁹ Section 397.4871(6)(a), F.S. CRRAs who violate this provision are subject to revocation of certification at the discretion of the credentialing entity.

⁴⁰ Section 397.4871(6)(c), F.S. CRRAs who violate this provision are subject to mandatory revocation of certification.

⁴¹ Section 397.4871(7), F.S. CRRAs who violate this provision commit a first degree misdemeanor, punishable as provided in section 775.082, F.S. or section 775.083, F.S.

⁴² Section 397.4871(8)(b), F.S.

written records of decisions made and proceedings conducted make such records available to the Division of Administrative Hearings upon request.

The bill also amends s. 397.4871, F.S., expanding the total number of residents a CRRA of a certified recovery residence may manage under certain conditions. Specifically, the bill allows credentialing entities to approve CRRAs to actively manage up to 250 residents if:

- The CRRA has already been approved to manage 100 residents;
- The CRRA's recovery residence is wholly owned or controlled by a licensed service provider; and
- The licensed service provider maintains a ratio of at least one supervisory employee to eight residents.

The bill further stipulates that a CRRA who has been removed by a recovery residence due to termination, resignation, or for any other reason may not continue to actively manage more than 100 residents without being reapproved by a credentialing entity.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact on licensed service providers by allowing CRRAs of certified recovery residences to actively manage more residents.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 397.487 and 397.4871 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 20, 2023:

The committee substitute:

- Specifies that the onsite inspections performed by credentialing entities following receipt of a recovery residence's completed application for certification must be done specifically to determine whether the applicant meets established certification requirements.
- Requires periodic, rather than follow-up, onsite monitoring of a recovery residence by a credentialing entity following certification in order to ensure ongoing compliance with certification requirements.
- Prevents credentialing entities from suspending or revoking a certification without first making a written determination that a recovery residence is not in compliance with any certification requirement or has failed to timely remedy any identified deficiency.
- Increases, from 30 days to 90 days, the amount of time a recovery residence has to retain a new certified recovery residence administrator (CRRA) following the termination, resignation, or removal for any reason of the previous CRRA.
- Clarifies that credentialing entities must initiate formal proceedings in order to revoke a recovery residence's certification.
- Requires credentialing entities to provide certified recovery residences with formal written notice and 90 days to cure alleged deficiencies unless the alleged deficiency is an immediate threat to the health, life, or safety of a resident or residents.
- Allows credentialing entities to proceed with formal proceedings against a recovery residence if such deficiencies are not cured within 90 days.

- Requires credentialing entities to allow a recovery residence to participate in all proceedings conducted by the credentialing entity regarding the issues raised in the formal written notice, and requires the credentialing entity to issue a formal written notice of its final decision after the conclusion of such proceedings.
- Allows a recovery residence to initiate administrative proceedings under chs. 120.569 and 120.57, F.S., within 30 days of receiving a formal written notice of final action from a credentialing entity.
- Requires credentialing entities to keep written records of decisions made and proceedings conducted make such records available to the Division of Administrative Hearings upon request.
- Allows a CRRA to actively manage up to 250 residents if:
 - The CRRA's recovery residence provides therapeutic housing and ancillary services exclusively to a licensed service provider; and
 - The licensed service provider maintains a staffing ratio of at least one supervisory employee for every eight residents.
- Removes a provision requiring a certified recovery residence to retain a new CRRA within 90 days if the previous CRRA:
 - Has been terminated, resigned, or been removed for any other reason; and
 - Had been approved to actively manage more than 50 residents.
- Removes the provision creating a Substance Abuse and Mental Health Treatment and Housing Task Force.
- Removes the three year exemption from local zoning laws and ordinances.
- Removes provisions requiring the DCF to adopt by rule:
 - Current certification requirements of credentialing entities; and
 - Any changes to certification requirements made by credentialing entities.

B. Amendments:

None.