

A bill to be entitled

An act relating to substance abuse service providers; amending ss. 397.403 and 397.410, F.S.; prohibiting the use of specified substances on certain premises; amending s. 397.411, F.S.; requiring the Department of Children and Families to establish a mechanism for the imposition and collection of fines for certain violations; amending s. 397.487, F.S.; prohibiting the use of marijuana on certain premises; providing penalties for trespass in a recovery residence; amending s. 397.4873, F.S.; prohibiting a service provider from referring patients to certain recovery residences; requiring a referral to include the placement of a patient into specified programs; requiring the department to establish a mechanism for the imposition and collection of fines for certain violations; providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (1) of section 397.403, Florida Statutes, to read:

397.403 License application.—

(1) Applicants for a license under this chapter must apply to the department on forms provided by the department and in

26 | accordance with rules adopted by the department. Applications
 27 | must include at a minimum:

28 | (k) A prohibition on the premises against alcohol,
 29 | marijuana, illegal drugs, and the use of prescribed medications
 30 | by an individual other than the individual for whom the
 31 | medication is prescribed.

32 | Section 2. Paragraph (f) is added to subsection (1) of
 33 | section 397.410, Florida Statutes, to read:

34 | 397.410 Licensure requirements; minimum standards; rules.—

35 | (1) The department shall establish minimum requirements
 36 | for licensure of each service component, as defined in s.
 37 | 397.311(26), including, but not limited to:

38 | (f) A prohibition on the premises against alcohol,
 39 | marijuana, illegal drugs, and the use of prescribed medications
 40 | by an individual other than the individual for whom the
 41 | medication is prescribed.

42 | Section 3. Section 397.411, Florida Statutes, is amended
 43 | to read:

44 | 397.411 Inspection; right of entry; classification of
 45 | violations; records; penalties.—

46 | (1)(a) An authorized agent of the department may conduct
 47 | announced or unannounced inspections, at any time, of a licensed
 48 | service provider to determine whether it is in compliance with
 49 | statutory and regulatory requirements, including, but not
 50 | limited to, the minimum requirements for licensure in s.

51 397.410.

52 (b) An authorized agent of the department may, with the
53 permission of the person in charge of the premises or pursuant
54 to a warrant, enter and inspect any unlicensed service provider
55 it reasonably suspects to be operating in violation of any
56 provision of this chapter.

57 (c) An application for licensure as a service provider
58 under this chapter constitutes full permission for an authorized
59 agent of the department to enter and inspect the premises of
60 such service provider at any time.

61 (2) The department shall accept, in lieu of its own
62 inspections for licensure, the survey or inspection of an
63 accrediting organization, if the provider is accredited
64 according to the provisions of s. 394.741 and the department
65 receives the report of the accrediting organization.

66 (3) Notwithstanding the confidentiality provisions of this
67 chapter, a designated and authorized agent of the department may
68 access the records of the individuals served by licensed service
69 providers, but only for purposes of licensing, monitoring, and
70 investigation. The department may interview individuals, as
71 specified by rule.

72 (4) The authorized agents of the department may schedule
73 periodic inspections of licensed service providers in order to
74 minimize costs and the disruption of services; however, such
75 authorized agents may inspect the facilities of any licensed

76 | service provider at any time.

77 | (5) In an effort to coordinate inspections among agencies,
78 | the department shall notify applicable state agencies of any
79 | scheduled licensure inspections of service providers jointly
80 | funded by the agencies.

81 | (6) The department shall maintain as public information,
82 | available to any person upon request and upon payment of a
83 | reasonable charge for copying, copies of licensure reports of
84 | licensed providers.

85 | (7) Violations of this part or applicable rules shall be
86 | classified according to the nature of the violation and the
87 | gravity of its probable effect on an individual receiving
88 | substance abuse treatment. Violations shall be classified on the
89 | written notice as follows:

90 | (a) Class "I" violations are those conditions or
91 | occurrences related to the operation and maintenance of a
92 | service component or to the treatment of an individual which the
93 | department determines present an imminent danger or a
94 | substantial probability that death or serious physical or
95 | emotional harm would result therefrom. The condition or practice
96 | constituting a class I violation shall be abated or eliminated
97 | within 24 hours, unless a fixed period, as determined by the
98 | department, is required for correction. The department shall
99 | impose an administrative fine as provided by law for a cited
100 | class I violation. A fine shall be levied notwithstanding the

101 correction of the violation.

102 (b) Class "II" violations are those conditions or
103 occurrences related to the operation and maintenance of a
104 service component or to the treatment of an individual which the
105 department determines directly threaten the physical or
106 emotional health, safety, or security of the individual, other
107 than class I violations. The department shall impose an
108 administrative fine as provided by law for a cited class II
109 violation. A fine shall be levied notwithstanding the correction
110 of the violation.

111 (c) Class "III" violations are those conditions or
112 occurrences related to the operation and maintenance of a
113 service component or to the treatment of an individual which the
114 department determines indirectly or potentially threaten the
115 physical or emotional health, safety, or security of the
116 individual, other than class I or class II violations. The
117 department shall impose an administrative fine as provided in
118 this section for a cited class III violation. A citation for a
119 class III violation must specify the time within which the
120 violation is required to be corrected. If a class III violation
121 is corrected within the time specified, a fine may not be
122 imposed.

123 (d) Class "IV" violations are those conditions or
124 occurrences related to the operation and maintenance of a
125 service component or to required reports, forms, or documents

126 that do not have the potential of negatively affecting an
127 individual. These violations are of a type that the department
128 determines do not threaten the health, safety, or security of an
129 individual. The department shall impose an administrative fine
130 as provided in this section for a cited class IV violation. A
131 citation for a class IV violation must specify the time within
132 which the violation is required to be corrected. If a class IV
133 violation is corrected within the time specified, a fine may not
134 be imposed.

135 (8) The department shall establish a mechanism for the
136 imposition and collection of fines for violations of this
137 section no later than January 1, 2024.

138 Section 4. Paragraph (a) of subsection (3) and subsection
139 (11) of section 397.487, Florida Statutes, are amended to read:
140 397.487 Voluntary certification of recovery residences.-

141 (3) A credentialing entity shall require the recovery
142 residence to submit the following documents with the completed
143 application and fee:

144 (a) A policy and procedures manual containing:

145 1. Job descriptions for all staff positions.

146 2. Drug-testing procedures and requirements.

147 3. A prohibition on the premises against alcohol,

148 marijuana, illegal drugs, and the use of prescribed medications

149 by an individual other than the individual for whom the

150 medication is prescribed.

151 4. Policies to support a resident's recovery efforts.

152 5. A good neighbor policy to address neighborhood concerns
153 and complaints.

154 (11) (a) Notwithstanding any landlord and tenant rights and
155 obligations under chapter 83, a recovery residence that is
156 certified under this section and has a discharge policy approved
157 by a department-recognized credentialing entity may immediately
158 discharge or transfer a resident in accordance with that policy
159 under any of the following circumstances:

160 ~~1. (a)~~ The discharge or transfer is necessary for the
161 resident's welfare.

162 ~~2. (b)~~ The resident's needs cannot be met at the recovery
163 residence.

164 ~~3. (c)~~ The health and safety of other residents or recovery
165 residence employees is at risk or would be at risk if the
166 resident continues to live at the recovery residence.

167 (b) Any person who is discharged from a recovery residence
168 under this subsection, and who willfully refuses to depart after
169 having been warned to do so by the owner or employee of the
170 recovery residence, commits the offense of trespass in a
171 recovery residence, a misdemeanor of the second degree,
172 punishable as provided in s. 775.082 or s. 775.083.

173 Section 5. Subsections (3) through (7) of section
174 397.4873, Florida Statutes, are renumbered as subsections (4)
175 through (8), respectively, present subsections (3) and (6) are

176 amended, and a new subsection (3) is added to that section, to
 177 read:

178 397.4873 Referrals to or from recovery residences;
 179 prohibitions; penalties.—

180 (3) Notwithstanding subsection (2), a service provider
 181 licensed under this part may not make a referral of a
 182 prospective, current, or discharged patient to, or accept a
 183 referral of such patient from, a recovery residence that allows
 184 the use of alcohol, marijuana, illegal drugs, or the use of
 185 prescribed medications by an individual other than the
 186 individual for whom the medication is prescribed on the
 187 premises.

188 (4)~~(3)~~ For purposes of this section, a licensed service
 189 provider or recovery residence shall be considered to have made
 190 a referral if the provider or recovery residence has informed a
 191 patient by any means about the name, address, or other details
 192 of a recovery residence or licensed service provider, or
 193 informed a licensed service provider or a recovery residence of
 194 any identifying details about a patient. A referral must also
 195 include the placement of a patient by a licensed service
 196 provider into the community housing component of the provider's
 197 day or night treatment with community housing regardless of
 198 whether the community housing component is affiliated with the
 199 licensed service provider.

200 (7)~~(6)~~ A licensed service provider that violates this

201 section is subject to an administrative fine of \$1,000 per
202 occurrence. If such fine is imposed by final order of the
203 department and is not subject to further appeal, the service
204 provider shall pay the fine plus interest at the rate specified
205 in s. 55.03 for each day beyond the date set by the department
206 for payment of the fine. If the service provider does not pay
207 the fine plus any applicable interest within 60 days after the
208 date set by the department, the department shall immediately
209 suspend the service provider's license. Repeat violations of
210 this section may subject a provider to license suspension or
211 revocation pursuant to s. 397.415. The department shall
212 establish a mechanism for the imposition and collection of fines
213 for violations of this subsection no later than January 1, 2024.

214 Section 6. This act shall take effect July 1, 2023.