

By Senator Gruters

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A bill to be entitled

An act relating to recovery residences; amending s. 394.875, F.S.; prohibiting providers licensed for primary inpatient or outpatient mental health services from using certified recovery residences to provide housing to their patients; authorizing service providers certified as Level IV programs to use their certified recovery residences to provide housing to persons who receive primary outpatient mental health services; requiring that such housing be segregated based upon primary diagnosis; amending s. 397.407, F.S.; authorizing the transfer of probationary and regular licenses to a new owner; revising the definition of the term "transfer"; providing applicability; requiring the Department of Children and Families to issue a regular license after the department receives a complete application from certain existing licensed service providers that are seeking to add licensed services or one or more additional levels of care at an existing licensed location or at one or more new locations within a specified timeframe, if certain requirements are met; prohibiting the imposition of additional requirements upon such service providers; amending s. 397.410, F.S.; requiring that clinical treatment room size and the number of individuals who receive clinical services together in a group setting be determined by the applicable building and fire codes; amending s. 397.415, F.S.; revising the criteria that the

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department may use to deny, suspend, or revoke the license of a service provider or suspend or revoke such license as to the operation of certain service components or locations; amending s. 397.487, F.S.; prohibiting a credentialing entity from requesting or obtaining certain records, policies, and procedures when determining whether to suspend or revoke a licensed service provider's certificate to serve as a recovery residence; deleting a requirement that an officer, a director, or a chief financial officer of a certified recovery residence be immediately removed from that position within a specified timeframe under certain circumstances; reenacting s. 397.411(1)(a), F.S., relating to inspection of licensed service providers, to incorporate the amendment made to s. 397.410, F.S., in a reference thereto; reenacting ss. 397.4104(2) and 397.4873(7), F.S., relating to records of recovery residences used by service providers and penalties for licensed recovery residences, respectively, to incorporate the amendment made to s. 397.415, F.S., in references thereto; providing an effective date.

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

Section 1. Present subsection (11) of section 394.875, Florida Statutes, is redesignated as subsection (12), and a new subsection (11) is added to that section, to read:

394.875 Crisis stabilization units, residential treatment

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59 facilities, and residential treatment centers for children and
60 adolescents; authorized services; license required.—

61 (11) Providers licensed for primary inpatient or outpatient
62 mental health services may not use a recovery residence
63 certified pursuant to s. 397.487 to provide housing to their
64 patients. All such housing must be licensed pursuant to this
65 section. Service providers licensed under chapter 397 which are
66 certified by the credentialing agency as Level IV programs
67 pursuant to s. 397.311(5)(d) may use their certified recovery
68 residences to provide housing to persons who receive primary
69 outpatient mental health services pursuant to licensure obtained
70 pursuant to this section. Such housing must be segregated based
71 upon primary diagnosis.

72 Section 2. Subsections (6) and (7) of section 397.407,
73 Florida Statutes, are amended to read:

74 397.407 Licensure process; fees.—

75 (6) The department may issue probationary, regular, and
76 interim licenses. The department may issue one license for all
77 service components operated by a service provider and defined
78 pursuant to s. 397.311(27). The license is valid only for the
79 specific service components listed for each specific location
80 identified on the license. The licensed service provider must
81 ~~shall~~ apply for the addition of any service components and
82 obtain approval before initiating additional services. The
83 licensed service provider must notify the department and provide
84 any required documentation at least 30 days before the
85 relocation of any of its service sites. Provision of service
86 components or delivery of services at a location not identified
87 on the license may be considered an unlicensed operation that

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authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may ~~not~~ be transferred to a new owner consistent with the procedures set forth in s. 408.807. As used in this subsection, the term "transfer" means:

(a) An event in which the licensee sells or otherwise transfers its ownership to a different individual or entity as evidenced by a change in federal employer identification number or taxpayer identification number; or

(b) An event in which 51 percent or more of the ownership, shares, membership, or controlling interest of a licensee is in any manner transferred or otherwise assigned. This paragraph does not apply to a licensee that is publicly traded on a recognized stock exchange. A change solely in the management company or board of directors is not a change of ownership
~~includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.~~

(7) Upon receipt of a complete application, payment of applicable fees, and a demonstration of substantial compliance with all applicable statutory and regulatory requirements, the department may issue a probationary license to a new service provider applicant with services that are not yet fully operational. The department shall issue a regular license within 30 calendar days after receipt of a complete application from an existing licensed service provider that is in compliance with

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all renewal requirements and that is seeking to add licensed services or one or more additional levels of care at an existing licensed location or at one or more new locations when:

(a) The application is from a provider with the same federal tax identification number as the existing provider; and

(b) A complete application is provided consistent with this chapter.

No other additional requirements may be imposed upon an existing service provider seeking to add new levels of care or new

locations ~~The department may not issue a probationary license when doing so would place the health, safety, or welfare of individuals at risk. A probationary license expires 90 days after issuance and may not be reissued. During the probationary period the department shall monitor the delivery of services. Notwithstanding s. 120.60(5), the department may order a probationary licensee to cease and desist operations at any time it is found to be substantially out of compliance with licensure standards. This cease-and-desist order is exempt from the requirements of s. 120.60(6).~~

Section 3. Paragraph (c) of subsection (1) of section 397.410, Florida Statutes, is amended to read:

397.410 Licensure requirements; minimum standards; rules.—

(1) The department shall establish minimum requirements for licensure of each service component, as defined in s. 397.311(27), including, but not limited to:

(c) The number and qualifications of all personnel, including, but not limited to, management, nursing, and qualified professionals, having responsibility for any part of

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an individual's clinical treatment. These requirements must include, but are not limited to:

1. Education; credentials, such as licensure or certification, if appropriate; training; and supervision of personnel providing direct clinical treatment.

2. Minimum staffing ratios to provide adequate safety, care, and treatment.

3. Hours of staff coverage.

4. The maximum number of individuals who may receive clinical services together in a group setting; however, group room size and the maximum number of individuals who receive clinical services within such a space must be determined by the applicable building and fire codes.

5. The maximum number of licensed service providers for which a physician may serve as medical director and the total number of individuals he or she may treat in that capacity.

Section 4. Paragraph (d) of subsection (1) of section 397.415, Florida Statutes, is amended to read:

397.415 Denial, suspension, and revocation; other remedies.—

(1) If the department determines that an applicant or licensed service provider or licensed service component thereof is not in compliance with all statutory and regulatory requirements, the department may deny, suspend, revoke, or impose reasonable restrictions or penalties on the license or any portion of the license. In such case:

(d) The department may deny, suspend, or revoke the license of a service provider or may suspend or revoke the license as to the operation of any service component or location identified on

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the license for:

1. False representation of a material fact in the license application or omission of any material fact from the application.

2. An intentional or negligent act materially affecting the health or safety of an individual receiving services from the provider.

3. A violation of this chapter or applicable rules.

4. A demonstrated pattern of deficient performance.

5. Failure to timely notify the department of ~~immediately remove~~ service provider personnel subject to background screening pursuant to s. 397.4073 who are arrested and awaiting disposition for or found guilty of, ~~regardless of adjudication,~~ or have entered a plea of guilty or nolo contendere ~~or guilty~~ to, regardless of whether adjudication is withheld, any offense prohibited under the screening standard ~~and notify the department~~ within 2 days after such event ~~removal~~, excluding weekends and holidays.

Section 5. Paragraphs (a) and (d) of subsection (8) of section 397.487, Florida Statutes, are amended to read:

397.487 Voluntary certification of recovery residences.—

(8) Onsite followup monitoring of a certified recovery residence may be conducted by the credentialing entity to determine continuing compliance with certification requirements. The credentialing entity shall inspect each certified recovery residence at least annually to ensure compliance.

(a) A credentialing entity may suspend or revoke a certification if the recovery residence is not in compliance with ~~any provision of~~ this section or has failed to remedy any

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deficiency identified by the credentialing entity within the time period specified. For purposes of this paragraph, the credentialing entity may not request or obtain clinical or medical records of a resident, or the department-approved policies and procedures of a licensed service provider, when determining whether to suspend or revoke a certificate, consistent with the privacy protections afforded pursuant to s. 397.501(7) and 42 C.F.R. part 2.

(d) If any owner, director, or chief financial officer of a certified recovery residence is arrested and awaiting disposition for or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any offense listed in s. 435.04(2) while acting in that capacity, the certified recovery residence must ~~immediately remove the person from that position and~~ notify the credentialing entity within 3 business days after such event removal. The credentialing entity must revoke the certificate of compliance of a certified recovery residence that fails to meet these requirements.

Section 6. For the purpose of incorporating the amendment made by this act to section 397.410, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 397.411, Florida Statutes, is reenacted to read:

397.411 Inspection; right of entry; classification of violations; records.—

(1)(a) An authorized agent of the department may conduct announced or unannounced inspections, at any time, of a licensed service provider to determine whether it is in compliance with statutory and regulatory requirements, including, but not

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limited to, the minimum requirements for licensure in s.
397.410.

Section 7. For the purpose of incorporating the amendment made by this act to section 397.415, Florida Statutes, in a reference thereto, subsection (2) of section 397.4104, Florida Statutes, is reenacted to read:

397.4104 Record of recovery residences used by service providers.—

(2) Beginning July 1, 2022, a licensed service provider that violates this section is subject to an administrative fine of \$1,000 per occurrence. The department may suspend or revoke a service provider's license pursuant to s. 397.415 for repeat violations of this section.

Section 8. For the purpose of incorporating the amendment made by this act to section 397.415, Florida Statutes, in a reference thereto, subsection (7) of section 397.4873, Florida Statutes, is reenacted to read:

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

(7) A licensed service provider that violates this section is subject to an administrative fine of \$1,000 per occurrence. If such fine is imposed by final order of the department and is not subject to further appeal, the service provider shall pay the fine plus interest at the rate specified in s. 55.03 for each day beyond the date set by the department for payment of the fine. If the service provider does not pay the fine plus any applicable interest within 60 days after the date set by the department, the department shall immediately suspend the service provider's license. Repeat violations of this section may

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subject a provider to license suspension or revocation pursuant
to s. 397.415. The department shall establish a mechanism no
later than January 1, 2024, for the imposition and collection of
fines for violations under this section.

Section 9. This act shall take effect July 1, 2026.