

By Senator Clemens

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1 A bill to be entitled
2 An act relating to substance abuse services; amending
3 s. 397.311, F.S.; providing definitions; creating s.
4 397.487, F.S.; prohibiting a sober house transitional
5 living home from operating in this state without a
6 valid certificate of registration from the Department
7 of Children and Families; requiring a sober house
8 operator to annually apply for a certificate of
9 registration with the department; requiring certain
10 sober house transitional living homes to apply for a
11 certificate of registration by a specified date;
12 requiring the department to adopt rules pertaining to
13 the application process for obtaining a certificate of
14 registration; requiring background screening of
15 certain personnel; requiring the department to suspend
16 and reinstate a certificate of registration of a sober
17 house transitional living home under certain
18 circumstances; providing a criminal penalty for
19 operating a sober house transitional living home
20 without a valid certificate of registration; providing
21 certain requirements in advertising a sober house
22 transitional living home; providing a criminal
23 penalty; authorizing the department to conduct
24 inspections; authorizing the department to deny,
25 suspend, or revoke the certificate of registration of
26 a sober house transitional home; providing eviction
27 procedures; requiring the department to adopt rules;
28 amending ss. 212.055 and 440.102, F.S.; conforming
29 cross-references; providing an effective date.

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

Section 1. Subsections (30) through (39) of section 397.311, Florida Statutes, are amended to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(30) "Registrable component" includes a sober house transitional living home that is a residential dwelling unit that provides a peer-supported, managed, alcohol-free, and drug-free living environment.

(31) "Residential dwelling unit" means a single unit used primarily for living and sleeping which provides complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(32)~~(30)~~ "Screening" means the gathering of initial information to be used in determining a person's need for assessment, services, or referral.

(33)~~(31)~~ "Secure facility," except where the context indicates a correctional system facility, means a provider that has the authority to deter the premature departure of involuntary individuals whose leaving constitutes a violation of a court order or community-based supervision as provided by law. The term "secure facility" includes addictions receiving facilities and facilities authorized by local ordinance for the treatment of habitual abusers.

(34)~~(32)~~ "Service component" or "component" means a discrete operational entity within a service provider which is

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59 subject to licensing as defined by rule. Service components
60 include prevention, intervention, and clinical treatment as
61 defined ~~described~~ in subsection (18).

62 (35)~~(33)~~ "Service provider" or "provider" means a public
63 agency, a private for-profit or not-for-profit agency, a person
64 who is a private practitioner, or a hospital licensed under this
65 chapter or exempt from licensure under this chapter.

66 (36)~~(34)~~ "Service provider personnel" or "personnel"
67 includes all owners, directors, chief financial officers, staff,
68 and volunteers, including foster parents, of a service provider.

69 (37) "Sober house operator" means a person who operates a
70 sober house transitional living home.

71 (38)~~(35)~~ "Stabilization" connotes short-term emergency
72 treatment and means:

73 (a) Alleviation of a crisis condition; or

74 (b) Prevention of further deterioration,

75

76 ~~and connotes short-term emergency treatment.~~

77 (39)~~(36)~~ "Substance abuse" means the misuse or abuse of, or
78 dependence on alcohol, illicit drugs, or prescription
79 medications. As an individual progresses along this continuum of
80 misuse, abuse, and dependence, there is an increased need for
81 substance abuse intervention and treatment to help abate the
82 problem.

83 (40)~~(37)~~ "Substate entity" means a departmental office
84 designated to serve a geographical area specified by the
85 department.

86 (41)~~(38)~~ "System of care" means a coordinated continuum of
87 community-based services and supports that are organized to meet

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88 the challenges and needs of individuals who are at risk of
89 developing substance abuse problems or individuals who have
90 substance abuse problems.

91 (42)~~(39)~~ "Treatment plan" means an immediate and a long-
92 range plan based upon an individual's assessed needs and used to
93 address and monitor an individual's recovery from substance
94 abuse.

95 Section 2. Section 397.487, Florida Statutes, is created to
96 read:

97 397.487 Sober house transitional living homes.-

98 (1) APPLICATION.-

99 (a) A sober house transitional living home may not operate
100 in this state without a valid certificate of registration from
101 the department.

102 (b) A sober house operator shall annually apply to the
103 department for a certificate of registration to operate a sober
104 house transitional living home by submitting the following:

105 1. The name and physical address of the sober house
106 transitional living home.

107 2. The name of the sober house operator.

108 3. The number of individuals served at the sober house
109 transitional living home.

110 4. Proof of screening and background checks as required
111 under chapter 435.

112 5. Written eviction procedures in accordance with
113 subsection (7).

114 6. Proof of satisfactory fire, safety, and health
115 inspections and compliance with local zoning ordinances.

116 7. A registration fee, not to exceed \$200.

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117 (c) A sober house transitional living home in existence on
118 July 1, 2014, shall apply for a certificate of registration by
119 September 1, 2014.

120 (d) The department shall adopt rules pertaining to the
121 application process for obtaining a certificate of registration.

122 (2) BACKGROUND SCREENING.—

123 (a) The owner, director, manager, operator, and chief
124 financial officer of a sober house transitional living home are
125 subject to level 2 background screening as provided in s.
126 435.04.

127 (b) The department may not grant a certificate of
128 registration to a sober house transitional living home that
129 fails to provide proof that background screening information has
130 been submitted in accordance with chapter 435.

131 (c) If a background screening reveals that an individual
132 specified in paragraph (a) has been arrested for and is awaiting
133 final disposition of, has been found guilty of, regardless of
134 adjudication, or has entered a plea of nolo contendere or guilty
135 to, or has been adjudicated delinquent and the record has not
136 been sealed or expunged, for an offense prohibited under the
137 level 2 screening standards established in s. 435.04, the
138 department may not grant a certificate of registration to the
139 applicant sober house transitional living home unless an
140 exemption from disqualification has been granted by the
141 department pursuant to chapter 435.

142 (d) The department shall immediately suspend the
143 certificate of registration of a sober house transitional living
144 home if an individual specified in paragraph (a), while acting
145 in his or her professional capacity, is arrested for and is

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146 awaiting final disposition of, is found guilty of, regardless of
147 adjudication, or enters a plea of nolo contendere or guilty to,
148 or is adjudicated delinquent and the record is not sealed or
149 expunged, for an offense prohibited under the level 2 screening
150 standards established in s. 435.04. The department shall
151 reinstate the certificate of registration after such individual
152 resigns or is removed from his or her position at the sober
153 house transitional living home and replaced by another qualified
154 individual who passes the level 2 background screening as
155 provided in s. 435.04.

156 (3) PENALTIES.—A person or agency that operates a
157 residential dwelling unit as a sober house transitional living
158 home without a valid certificate of registration in accordance
159 with this section commits a misdemeanor of the first degree,
160 punishable as provided in s. 775.082 or s. 775.083.

161 (4) ADVERTISING.—A person, as defined in s. 1.01, who owns
162 or operates a sober house transitional living home must include
163 the home's state registration number within an advertisement of
164 the sober house transitional living home. A person who violates
165 this subsection commits a misdemeanor of the first degree,
166 punishable as provided in s. 775.082 or s. 775.083.

167 (5) INSPECTIONS.—

168 (a) An authorized agent of the department may enter and
169 inspect at any time a sober house transitional living home that
170 has a certificate of registration from the department to
171 determine whether it is in compliance with statutory and
172 regulatory requirements.

173 (b) An authorized agent of the department may, with the
174 permission of the person in charge of the premises or pursuant

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175 to a warrant, enter and inspect a residential dwelling unit that
176 the agent reasonably suspects to be operating as a sober house
177 transitional living home in violation of this section.

178 (c) Notwithstanding the confidentiality provisions of this
179 chapter, a designated and authorized agent of the department may
180 access the records of the individuals served by a sober house
181 transitional living home solely for purposes of certification,
182 monitoring, and investigation. The department may interview
183 these individuals as specified by rule.

184 (d) Before the department grants or denies a certificate of
185 registration, an authorized agent of the department may enter
186 and inspect at any time the premises of an applicant sober house
187 transitional living home.

188 (e) The department shall maintain certificates of
189 registration and reports of inspections of sober house
190 transitional living homes as public records that are available
191 to any person upon request and upon payment of a reasonable
192 charge for copying as provided in s. 119.07.

193 (6) DENIAL; SUSPENSION; AND REVOCATION.—

194 (a) If the department determines that an applicant or a
195 sober house transitional living home is not in compliance with
196 statutory and regulatory requirements, the department may deny,
197 suspend, revoke, or impose reasonable restrictions or penalties
198 on the certificate of registration or any portion of the
199 certificate. In such case, the department may:

200 1. Impose an administrative penalty of up to \$500 per day
201 against a sober house transitional living home that operates in
202 violation of statutory or regulatory requirements.

203 2. Suspend or revoke a sober house transitional living

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204 home's certificate of registration if, after notice, the
205 department determines that the home has failed to correct a
206 substantial or chronic violation of a statutory or regulatory
207 requirement which impacts the safety of the individuals served
208 at the home.

209 (b) If a sober house transitional living home's certificate
210 of registration is revoked, the home is barred from submitting
211 an application for a certificate of registration to the
212 department for a period of 1 year after the revocation.

213 (c) Proceedings for the denial, suspension, or revocation
214 of a sober house transitional living home's certificate of
215 registration must be conducted in accordance with chapter 120.

216 (d) The department may maintain an action in court to
217 enjoin the operation of an uncertified sober house transitional
218 living home that violates this section.

219 (7) EVICTIONS.—In order to avoid increased homelessness and
220 crime and to ensure that the due process rights of a tenant are
221 not violated, a sober house transitional living home that is not
222 subject to chapter 83 must provide 48 hours' advance, written
223 notice of eviction to a tenant or immediate shelter to that
224 tenant for at least 48 hours after eviction at an alternative
225 temporary dwelling unit. As used in this subsection, the term
226 "tenant" means an individual entitled to occupy or reside at a
227 sober house transitional living home in accordance with a
228 written agreement.

229 (8) The department shall adopt rules to administer this
230 section.

231 Section 3. Paragraph (e) of subsection (5) of section
232 212.055, Florida Statutes, is amended to read:

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233 212.055 Discretionary sales surtaxes; legislative intent;
234 authorization and use of proceeds.—It is the legislative intent
235 that any authorization for imposition of a discretionary sales
236 surtax shall be published in the Florida Statutes as a
237 subsection of this section, irrespective of the duration of the
238 levy. Each enactment shall specify the types of counties
239 authorized to levy; the rate or rates which may be imposed; the
240 maximum length of time the surtax may be imposed, if any; the
241 procedure which must be followed to secure voter approval, if
242 required; the purpose for which the proceeds may be expended;
243 and such other requirements as the Legislature may provide.
244 Taxable transactions and administrative procedures shall be as
245 provided in s. 212.054.

246 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
247 s. 125.011(1) may levy the surtax authorized in this subsection
248 pursuant to an ordinance either approved by extraordinary vote
249 of the county commission or conditioned to take effect only upon
250 approval by a majority vote of the electors of the county voting
251 in a referendum. In a county as defined in s. 125.011(1), for
252 the purposes of this subsection, "county public general
253 hospital" means a general hospital as defined in s. 395.002
254 which is owned, operated, maintained, or governed by the county
255 or its agency, authority, or public health trust.

256 (e) A governing board, agency, or authority shall be
257 chartered by the county commission upon this act becoming law.
258 The governing board, agency, or authority shall adopt and
259 implement a health care plan for indigent health care services.
260 The governing board, agency, or authority shall consist of no
261 more than seven and no fewer than five members appointed by the

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262 county commission. The members of the governing board, agency,
263 or authority shall be at least 18 years of age and residents of
264 the county. No member may be employed by or affiliated with a
265 health care provider or the public health trust, agency, or
266 authority responsible for the county public general hospital.
267 The following community organizations shall each appoint a
268 representative to a nominating committee: the South Florida
269 Hospital and Healthcare Association, the Miami-Dade County
270 Public Health Trust, the Dade County Medical Association, the
271 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
272 County. This committee shall nominate between 10 and 14 county
273 citizens for the governing board, agency, or authority. The
274 slate shall be presented to the county commission and the county
275 commission shall confirm the top five to seven nominees,
276 depending on the size of the governing board. Until such time as
277 the governing board, agency, or authority is created, the funds
278 provided for in subparagraph (d)2. shall be placed in a
279 restricted account set aside from other county funds and not
280 disbursed by the county for any other purpose.

281 1. The plan shall divide the county into a minimum of four
282 and maximum of six service areas, with no more than one
283 participant hospital per service area. The county public general
284 hospital shall be designated as the provider for one of the
285 service areas. Services shall be provided through participants'
286 primary acute care facilities.

287 2. The plan and subsequent amendments to it shall fund a
288 defined range of health care services for both indigent persons
289 and the medically poor, including primary care, preventive care,
290 hospital emergency room care, and hospital care necessary to

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291 stabilize the patient. For the purposes of this section,
292 "stabilization" means stabilization as defined in s. 397.311 ~~s.~~
293 ~~397.311(35)~~. Where consistent with these objectives, the plan
294 may include services rendered by physicians, clinics, community
295 hospitals, and alternative delivery sites, as well as at least
296 one regional referral hospital per service area. The plan shall
297 provide that agreements negotiated between the governing board,
298 agency, or authority and providers shall recognize hospitals
299 that render a disproportionate share of indigent care, provide
300 other incentives to promote the delivery of charity care to draw
301 down federal funds where appropriate, and require cost
302 containment, including, but not limited to, case management.
303 From the funds specified in subparagraphs (d)1. and 2. for
304 indigent health care services, service providers shall receive
305 reimbursement at a Medicaid rate to be determined by the
306 governing board, agency, or authority created pursuant to this
307 paragraph for the initial emergency room visit, and a per-member
308 per-month fee or capitation for those members enrolled in their
309 service area, as compensation for the services rendered
310 following the initial emergency visit. Except for provisions of
311 emergency services, upon determination of eligibility,
312 enrollment shall be deemed to have occurred at the time services
313 were rendered. The provisions for specific reimbursement of
314 emergency services shall be repealed on July 1, 2001, unless
315 otherwise reenacted by the Legislature. The capitation amount or
316 rate shall be determined prior to program implementation by an
317 independent actuarial consultant. In no event shall such
318 reimbursement rates exceed the Medicaid rate. The plan must also
319 provide that any hospitals owned and operated by government

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320 entities on or after the effective date of this act must, as a
321 condition of receiving funds under this subsection, afford
322 public access equal to that provided under s. 286.011 as to any
323 meeting of the governing board, agency, or authority the subject
324 of which is budgeting resources for the retention of charity
325 care, as that term is defined in the rules of the Agency for
326 Health Care Administration. The plan shall also include
327 innovative health care programs that provide cost-effective
328 alternatives to traditional methods of service and delivery
329 funding.

330 3. The plan's benefits shall be made available to all
331 county residents currently eligible to receive health care
332 services as indigents or medically poor as defined in paragraph
333 (4) (d).

334 4. Eligible residents who participate in the health care
335 plan shall receive coverage for a period of 12 months or the
336 period extending from the time of enrollment to the end of the
337 current fiscal year, per enrollment period, whichever is less.

338 5. At the end of each fiscal year, the governing board,
339 agency, or authority shall prepare an audit that reviews the
340 budget of the plan, delivery of services, and quality of
341 services, and makes recommendations to increase the plan's
342 efficiency. The audit shall take into account participant
343 hospital satisfaction with the plan and assess the amount of
344 poststabilization patient transfers requested, and accepted or
345 denied, by the county public general hospital.

346 Section 4. Paragraphs (d) and (g) of subsection (1) of
347 section 440.102, Florida Statutes, are amended to read:

348 440.102 Drug-free workplace program requirements.—The

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349 following provisions apply to a drug-free workplace program
350 implemented pursuant to law or to rules adopted by the Agency
351 for Health Care Administration:

352 (1) DEFINITIONS.—Except where the context otherwise
353 requires, as used in this act:

354 (d) "Drug rehabilitation program" means a service provider,
355 as defined in s. 397.311, which established pursuant to s.
356 397.311(33), that provides confidential, timely, and expert
357 identification, assessment, and resolution of employee drug
358 abuse.

359 (g) "Employee assistance program" means an established
360 program capable of providing expert assessment of employee
361 personal concerns; confidential and timely identification
362 services with regard to employee drug abuse; referrals of
363 employees for appropriate diagnosis, treatment, and assistance;
364 and followup services for employees who participate in the
365 program or require monitoring after returning to work. If, in
366 addition to the above activities, an employee assistance program
367 provides diagnostic and treatment services, these services shall
368 in all cases be provided by service providers as defined in s.
369 397.311 pursuant to s. 397.311(33).

370 Section 5. This act shall take effect July 1, 2014.