

By Senator Garcia

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1 A bill to be entitled
2 An act relating to mental health and substance abuse;
3 amending s. 29.004, F.S.; including services provided
4 to treatment-based mental health programs within case
5 management funded from state revenues as an element of
6 the state courts system; amending s. 39.001, F.S.;
7 providing legislative intent regarding mental illness
8 for purposes of the child welfare system; amending s.
9 39.507, F.S.; providing for consideration of mental
10 health issues and involvement in treatment-based
11 mental health programs in adjudicatory hearings and
12 orders; amending s. 39.521, F.S.; providing for
13 consideration of mental health issues and involvement
14 in treatment-based mental health programs in
15 disposition hearings; amending s. 394.455, F.S.;
16 defining terms; revising definitions; amending s.
17 394.4573, F.S.; requiring the Department of Children
18 and Families to submit a certain assessment to the
19 Governor and the Legislature by a specified date;
20 redefining terms; providing essential elements of a
21 coordinated system of care; providing requirements for
22 the department's annual assessment; authorizing the
23 department to award certain grants; deleting duties
24 and measures of the department regarding continuity of
25 care management systems; amending s. 394.4597, F.S.;
26 revising the prioritization of health care surrogates
27 to be selected for involuntary patients; specifying
28 certain persons who are prohibited from being selected
29 as an individual's representative; amending s.
30 394.4598, F.S.; specifying certain persons who are
31 prohibited from being appointed as a person's guardian
32 advocate; amending s. 394.462, F.S.; requiring that

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33 counties develop and implement transportation plans;
34 providing requirements for the plans; revising
35 requirements for transportation to a receiving
36 facility and treatment facility; deleting exceptions
37 to such requirements; amending s. 394.463, F.S.;
38 authorizing county or circuit courts to enter ex parte
39 orders for involuntary examinations; requiring a
40 facility to provide copies of ex parte orders,
41 reports, and certifications to managing entities and
42 the department, rather than the Agency for Health Care
43 Administration; requiring the managing entity and
44 department to receive certain orders, certificates,
45 and reports; requiring the department to provide such
46 documents to the Agency for Health Care
47 Administration; requiring certain individuals to be
48 released to law enforcement custody; providing
49 exceptions; amending s. 394.4655, F.S.; providing for
50 involuntary outpatient services; requiring a service
51 provider to document certain inquiries; requiring the
52 managing entity to document certain efforts; making
53 technical changes; amending s. 394.467, F.S.; revising
54 criteria for involuntary inpatient placement;
55 requiring a facility filing a petition for involuntary
56 inpatient placement to send a copy to the department
57 and managing entity; revising criteria for a hearing
58 on involuntary inpatient placement; revising criteria
59 for a procedure for continued involuntary inpatient
60 services; specifying requirements for a certain waiver
61 of the patient's attendance at a hearing; requiring

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62 the court to consider certain testimony and evidence
63 regarding a patient's incompetence; amending s.
64 394.46715, F.S.; revising rulemaking authority of the
65 department; creating s. 394.761, F.S.; authorizing the
66 agency and the department to develop a plan for
67 revenue maximization; requiring the plan to be
68 submitted to the Legislature by a certain date;
69 amending s. 394.875, F.S.; requiring the department to
70 modify licensure rules and procedures to create an
71 option for a single, consolidated license for certain
72 providers by a specified date; amending s. 394.9082,
73 F.S.; providing a purpose for behavioral health
74 managing entities; revising definitions; providing
75 duties of the department; requiring the department to
76 revise its contracts with managing entities; providing
77 duties for managing entities; deleting provisions
78 relating to legislative findings and intent, service
79 delivery strategies, essential elements, reporting
80 requirements, and rulemaking authority; amending s.
81 397.311, F.S.; defining the term "involuntary
82 services"; revising the definition of the term
83 "qualified professional"; conforming a cross-
84 reference; amending s. 397.675, F.S.; revising the
85 criteria for involuntary admissions due to substance
86 abuse or co-occurring mental health disorders;
87 amending s. 397.679, F.S.; specifying the licensed
88 professionals who may complete a certificate for the
89 involuntary admission of an individual; amending s.
90 397.6791, F.S.; providing a list of professionals

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91 authorized to initiate a certificate for an emergency
92 assessment or admission of a person with a substance
93 abuse disorder; amending s. 397.6793, F.S.; revising
94 the criteria for initiation of a certificate for an
95 emergency admission for a person who is substance
96 abuse impaired; amending s. 397.6795, F.S.; revising
97 the list of persons who may deliver a person for an
98 emergency assessment; amending s. 397.681, F.S.;

99 prohibiting the court from charging a fee for
100 involuntary petitions; amending s. 397.6811, F.S.;

101 revising the list of persons who may file a petition
102 for an involuntary assessment and stabilization;
103 amending s. 397.6814, F.S.; prohibiting a fee from
104 being charged for the filing of a petition for
105 involuntary assessment and stabilization; amending s.
106 397.6819, F.S.; revising the responsibilities of
107 service providers who admit an individual for an
108 involuntary assessment and stabilization; amending s.
109 397.695, F.S.; authorizing certain persons to file a
110 petition for involuntary outpatient services of an
111 individual; providing procedures and requirements for
112 such petitions; amending s. 397.6951, F.S.; requiring
113 that certain additional information be included in a
114 petition for involuntary outpatient services; amending
115 s. 397.6955, F.S.; requiring a court to fulfill
116 certain additional duties upon the filing of petition
117 for involuntary outpatient services; amending s.
118 397.6957, F.S.; providing additional requirements for
119 a hearing on a petition for involuntary outpatient

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120 services; amending s. 397.697, F.S.; authorizing a
121 court to make a determination of involuntary
122 outpatient services; prohibiting a court from ordering
123 involuntary outpatient services under certain
124 circumstances; requiring the service provider to
125 document certain inquiries; requiring the managing
126 entity to document certain efforts; requiring a copy
127 of the court's order to be sent to the department and
128 managing entity; providing procedures for
129 modifications to such orders; amending s. 397.6971,
130 F.S.; establishing the requirements for an early
131 release from involuntary outpatient services; amending
132 s. 397.6975, F.S.; requiring the court to appoint
133 certain counsel; providing requirements for hearings
134 on petitions for continued involuntary outpatient
135 services; requiring notice of such hearings; amending
136 s. 397.6977, F.S.; conforming provisions to changes
137 made by the act; creating s. 397.6978, F.S.; providing
138 for the appointment of guardian advocates if an
139 individual is found incompetent to consent to
140 treatment; providing a list of persons prohibited from
141 being appointed as an individual's guardian advocate;
142 providing requirements for a facility requesting the
143 appointment of a guardian advocate; requiring a
144 training course for guardian advocates; providing
145 requirements for the training course; providing
146 requirements for the prioritization of individuals to
147 be selected as guardian advocates; authorizing certain
148 guardian advocates to consent to medical treatment;

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149 providing exceptions; providing procedures for the
 150 discharge of a guardian advocate; amending ss. 39.407,
 151 212.055, 394.4599, 394.495, 394.496, 394.9085,
 152 397.405, 397.407, 397.416, 409.972, 440.102, 744.704,
 153 and 790.065, F.S.; conforming cross-references;
 154 providing an effective date.

155

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

157

158 Section 1. Paragraph (e) is added to subsection (10) of
 159 section 29.004, Florida Statutes, to read:

160 29.004 State courts system.—For purposes of implementing s.
 161 14, Art. V of the State Constitution, the elements of the state
 162 courts system to be provided from state revenues appropriated by
 163 general law are as follows:

164 (10) Case management. Case management includes:

165 (e) Service referral, coordination, monitoring, and
 166 tracking for mental health programs under chapter 394.

167

168 Case management may not include costs associated with the
 169 application of therapeutic jurisprudence principles by the
 170 courts. Case management also may not include case intake and
 171 records management conducted by the clerk of court.

172 Section 2. Subsection (6) of section 39.001, Florida
 173 Statutes, is amended to read:

174 39.001 Purposes and intent; personnel standards and
 175 screening.—

176 (6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

177 (a) The Legislature recognizes that early referral and

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178 comprehensive treatment can help combat mental illness and
179 substance abuse disorders in families and that treatment is
180 cost-effective.

181 (b) The Legislature establishes the following goals for the
182 state related to mental illness and substance abuse treatment
183 services in the dependency process:

184 1. To ensure the safety of children.

185 2. To prevent and remediate the consequences of mental
186 illness and substance abuse disorders on families involved in
187 protective supervision or foster care and reduce the occurrences
188 of mental illness and substance abuse disorders, including
189 alcohol abuse or other related disorders, for families who are
190 at risk of being involved in protective supervision or foster
191 care.

192 3. To expedite permanency for children and reunify healthy,
193 intact families, when appropriate.

194 4. To support families in recovery.

195 (c) The Legislature finds that children in the care of the
196 state's dependency system need appropriate health care services,
197 that the impact of mental illnesses and substance abuse on
198 health indicates the need for health care services to include
199 treatment for mental health and substance abuse disorders for
200 ~~services to~~ children and parents where appropriate, and that it
201 is in the state's best interest that such children be provided
202 the services they need to enable them to become and remain
203 independent of state care. In order to provide these services,
204 the state's dependency system must have the ability to identify
205 and provide appropriate intervention and treatment for children
206 with personal or family-related mental illness and substance

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207 abuse problems.

208 (d) It is the intent of the Legislature to encourage the
209 use of the mental health programs established under chapter 394
210 and the drug court program model established under ~~by~~ s. 397.334
211 and authorize courts to assess children and persons who have
212 custody or are requesting custody of children where good cause
213 is shown to identify and address mental illnesses and substance
214 abuse disorders ~~problems~~ as the court deems appropriate at every
215 stage of the dependency process. Participation in treatment,
216 including a treatment-based mental health court program or a
217 treatment-based drug court program, may be required by the court
218 following adjudication. Participation in assessment and
219 treatment before ~~prior to~~ adjudication is ~~shall be~~ voluntary,
220 except as provided in s. 39.407(16).

221 (e) It is therefore the purpose of the Legislature to
222 provide authority for the state to contract with mental health
223 service providers and community substance abuse treatment
224 providers for the development and operation of specialized
225 support and overlay services for the dependency system, which
226 will be fully implemented and used as resources permit.

227 (f) Participation in a treatment-based mental health court
228 program or a ~~the~~ treatment-based drug court program does not
229 divest any public or private agency of its responsibility for a
230 child or adult, but is intended to enable these agencies to
231 better meet their needs through shared responsibility and
232 resources.

233 Section 3. Subsection (10) of section 39.507, Florida
234 Statutes, is amended to read:

235 39.507 Adjudicatory hearings; orders of adjudication.—

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236 (10) After an adjudication of dependency, or a finding of
237 dependency where adjudication is withheld, the court may order a
238 person who has custody or is requesting custody of the child to
239 submit to a mental health or substance abuse disorder assessment
240 or evaluation. The assessment or evaluation must be administered
241 by a qualified professional, as defined in s. 397.311. The court
242 may also require such person to participate in and comply with
243 treatment and services identified as necessary, including, when
244 appropriate and available, participation in and compliance with
245 a mental health program established under chapter 394 or a
246 treatment-based drug court program established under s. 397.334.
247 In addition to supervision by the department, the court,
248 including a treatment-based mental health court program or a ~~the~~
249 treatment-based drug court program, may oversee the progress and
250 compliance with treatment by a person who has custody or is
251 requesting custody of the child. The court may impose
252 appropriate available sanctions for noncompliance upon a person
253 who has custody or is requesting custody of the child or make a
254 finding of noncompliance for consideration in determining
255 whether an alternative placement of the child is in the child's
256 best interests. Any order entered under this subsection may be
257 made only upon good cause shown. This subsection does not
258 authorize placement of a child with a person seeking custody,
259 other than the parent or legal custodian, who requires mental
260 health or substance abuse disorder treatment.

261 Section 4. Paragraph (b) of subsection (1) of section
262 39.521, Florida Statutes, is amended to read:

263 39.521 Disposition hearings; powers of disposition.—

264 (1) A disposition hearing shall be conducted by the court,

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265 if the court finds that the facts alleged in the petition for
266 dependency were proven in the adjudicatory hearing, or if the
267 parents or legal custodians have consented to the finding of
268 dependency or admitted the allegations in the petition, have
269 failed to appear for the arraignment hearing after proper
270 notice, or have not been located despite a diligent search
271 having been conducted.

272 (b) When any child is adjudicated by a court to be
273 dependent, the court having jurisdiction of the child has the
274 power by order to:

275 1. Require the parent and, when appropriate, the legal
276 custodian and the child to participate in treatment and services
277 identified as necessary. The court may require the person who
278 has custody or who is requesting custody of the child to submit
279 to a mental illness or substance abuse disorder assessment or
280 evaluation. The assessment or evaluation must be administered by
281 a qualified professional, as defined in s. 397.311. The court
282 may also require such person to participate in and comply with
283 treatment and services identified as necessary, including, when
284 appropriate and available, participation in and compliance with
285 a mental health program established under chapter 394 or a
286 treatment-based drug court program established under s. 397.334.
287 In addition to supervision by the department, the court,
288 including a treatment-based mental health court program or a ~~the~~
289 treatment-based drug court program, may oversee the progress and
290 compliance with treatment by a person who has custody or is
291 requesting custody of the child. The court may impose
292 appropriate available sanctions for noncompliance upon a person
293 who has custody or is requesting custody of the child or make a

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294 finding of noncompliance for consideration in determining
295 whether an alternative placement of the child is in the child's
296 best interests. Any order entered under this subparagraph may be
297 made only upon good cause shown. This subparagraph does not
298 authorize placement of a child with a person seeking custody of
299 the child, other than the child's parent or legal custodian, who
300 requires mental health or substance abuse treatment.

301 2. Require, if the court deems necessary, the parties to
302 participate in dependency mediation.

303 3. Require placement of the child either under the
304 protective supervision of an authorized agent of the department
305 in the home of one or both of the child's parents or in the home
306 of a relative of the child or another adult approved by the
307 court, or in the custody of the department. Protective
308 supervision continues until the court terminates it or until the
309 child reaches the age of 18, whichever date is first. Protective
310 supervision shall be terminated by the court whenever the court
311 determines that permanency has been achieved for the child,
312 whether with a parent, another relative, or a legal custodian,
313 and that protective supervision is no longer needed. The
314 termination of supervision may be with or without retaining
315 jurisdiction, at the court's discretion, and shall in either
316 case be considered a permanency option for the child. The order
317 terminating supervision by the department must ~~shall~~ set forth
318 the powers of the custodian of the child and ~~shall~~ include the
319 powers ordinarily granted to a guardian of the person of a minor
320 unless otherwise specified. Upon the court's termination of
321 supervision by the department, ~~no~~ further judicial reviews are
322 not required if, ~~so long as~~ permanency has been established for

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323 the child.

324 Section 5. Section 394.455, Florida Statutes, is amended to
325 read:

326 394.455 Definitions.—As used in this part, ~~unless the~~
327 ~~context clearly requires otherwise,~~ the term:

328 (1) "Access center" or "drop-off center" means a facility
329 staffed by medical, behavioral, and substance abuse
330 professionals which provides emergency screening and evaluation
331 for mental health or substance abuse disorders and may provide
332 transportation to an appropriate facility if an individual is in
333 need of more intensive services.

334 (2) "Addictions receiving facility" means a secure, acute
335 care facility that, at a minimum, provides emergency screening,
336 evaluation, and short-term stabilization services; is operated
337 24 hours per day, 7 days per week; and is designated by the
338 department to serve individuals found to have substance abuse
339 impairment who qualify for services under this part.

340 (3)~~(1)~~ "Administrator" means the chief administrative
341 officer of a receiving or treatment facility or his or her
342 designee.

343 (4) "Adult" means an individual who is 18 years of age or
344 older or who has had the disability of nonage removed under
345 chapter 743.

346 (5) "Advanced registered nurse practitioner" means any
347 person licensed in this state to practice professional nursing
348 who is certified in advanced or specialized nursing practice
349 under s. 464.012.

350 ~~(2) "Clinical psychologist" means a psychologist as defined~~
351 ~~in s. 490.003(7) with 3 years of postdoctoral experience in the~~

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352 ~~practice of clinical psychology, inclusive of the experience~~
353 ~~required for licensure, or a psychologist employed by a facility~~
354 ~~operated by the United States Department of Veterans Affairs~~
355 ~~that qualifies as a receiving or treatment facility under this~~
356 ~~part.~~

357 (6)~~(3)~~ "Clinical record" means all parts of the record
358 required to be maintained and includes all medical records,
359 progress notes, charts, and admission and discharge data, and
360 all other information recorded by a facility staff which
361 pertains to the patient's hospitalization or treatment.

362 (7)~~(4)~~ "Clinical social worker" means a person licensed as
363 a clinical social worker under s. 491.005 or s. 491.006 ~~chapter~~
364 ~~491.~~

365 (8)~~(5)~~ "Community facility" means a ~~any~~ community service
366 provider that contracts ~~contracting~~ with the department to
367 furnish substance abuse or mental health services under part IV
368 of this chapter.

369 (9)~~(6)~~ "Community mental health center or clinic" means a
370 publicly funded, not-for-profit center that ~~which~~ contracts with
371 the department for the provision of inpatient, outpatient, day
372 treatment, or emergency services.

373 (10)~~(7)~~ "Court," unless otherwise specified, means the
374 circuit court.

375 (11)~~(8)~~ "Department" means the Department of Children and
376 Families.

377 (12) "Designated receiving facility" means a facility
378 approved by the department which provides, at a minimum,
379 emergency screening, evaluation, and short-term stabilization
380 for mental health or substance abuse disorders, and which may

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381 have an agreement with a corresponding facility for
382 transportation and services.

383 (13) "Detoxification facility" means a facility licensed to
384 provide detoxification services under chapter 397.

385 (14) "Electronic means" is a form of telecommunication
386 which requires all parties to maintain visual as well as audio
387 communication.

388 (15)~~(9)~~ "Express and informed consent" means consent
389 voluntarily given ~~in writing~~, by a competent person, after
390 sufficient explanation and disclosure of the subject matter
391 involved to enable the person to make a knowing and willful
392 decision without any element of force, fraud, deceit, duress, or
393 other form of constraint or coercion.

394 (16)~~(10)~~ "Facility" means any hospital, community facility,
395 public or private facility, or receiving or treatment facility
396 providing for the evaluation, diagnosis, care, treatment,
397 training, or hospitalization of persons who appear to have a
398 ~~mental illness~~ or who have been diagnosed as having a mental
399 illness or substance abuse impairment. The term "Facility" does
400 not include a any program or an entity licensed under pursuant
401 ~~to~~ chapter 400 or chapter 429.

402 (17) "Governmental facility" means a facility owned,
403 operated, or administered by the Department of Corrections or
404 the United States Department of Veterans Affairs.

405 (18)~~(11)~~ "Guardian" means the natural guardian of a minor,
406 or a person appointed by a court to act on behalf of a ward's
407 person if the ward is a minor or has been adjudicated
408 incapacitated.

409 (19)~~(12)~~ "Guardian advocate" means a person appointed by a

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410 court to make decisions regarding mental health or substance
411 abuse treatment on behalf of a patient who has been found
412 incompetent to consent to treatment pursuant to this part. ~~The~~
413 ~~guardian advocate may be granted specific additional powers by~~
414 ~~written order of the court, as provided in this part.~~

415 ~~(20)-(13)~~ "Hospital" means a hospital facility as defined in
416 s. 395.002 and licensed under chapter 395 and part II of chapter
417 408.

418 ~~(21)-(14)~~ "Incapacitated" means that a person has been
419 adjudicated incapacitated pursuant to part V of chapter 744 and
420 a guardian of the person has been appointed.

421 ~~(22)-(15)~~ "Incompetent to consent to treatment" means a
422 state in which ~~that~~ a person's judgment is so affected by a ~~his~~
423 ~~or her~~ mental illness, a substance abuse impairment, or any
424 medical or organic cause that he or she ~~the person~~ lacks the
425 capacity to make a well-reasoned, willful, and knowing decision
426 concerning his or her medical, ~~or~~ mental health, or substance
427 abuse treatment.

428 ~~(23)~~ "Involuntary examination" means an examination
429 performed under s. 394.463 or s. 397.675 to determine whether a
430 person qualifies for involuntary outpatient services or
431 involuntary inpatient placement.

432 ~~(24)~~ "Involuntary services" means court-ordered outpatient
433 services or inpatient placement for mental health treatment
434 pursuant to s. 394.4655 or s. 394.467.

435 ~~(25)-(16)~~ "Law enforcement officer" has the same meaning as
436 provided ~~means a law enforcement officer as defined in s.~~
437 943.10.

438 ~~(26)~~ "Marriage and family therapist" means a person

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439 licensed to practice marriage and family therapy under s.
440 491.005 or s. 491.006.

441 (27) "Mental health counselor" means a person licensed to
442 practice mental health counseling under s. 491.005 or s.
443 491.006.

444 (28)~~(17)~~ "Mental health overlay program" means a mobile
445 service that ~~which~~ provides an independent examination for
446 voluntary admission ~~admissions~~ and a range of supplemental
447 onsite services to persons with a mental illness in a
448 residential setting such as a nursing home, an assisted living
449 facility, or an adult family-care home~~7~~, or a nonresidential
450 setting such as an adult day care center. Independent
451 examinations provided ~~pursuant to this part~~ through a mental
452 health overlay program must only be provided under contract with
453 the department ~~for this service~~ or be attached to a public
454 receiving facility that is also a community mental health
455 center.

456 (29)~~(18)~~ "Mental illness" means an impairment of the mental
457 or emotional processes that exercise conscious control of one's
458 actions or of the ability to perceive or understand reality,
459 which impairment substantially interferes with the person's
460 ability to meet the ordinary demands of living. For the purposes
461 of this part, the term does not include a developmental
462 disability as defined in chapter 393, intoxication, or
463 conditions manifested only by antisocial behavior or substance
464 abuse impairment.

465 (30) "Minor" means an individual who is 17 years of age or
466 younger and who has not had the disability of nonage removed
467 pursuant to s. 743.01 or s. 743.015.

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468 ~~(31)(19)~~ "Mobile crisis response service" means a
469 nonresidential crisis service ~~attached to a public receiving~~
470 ~~facility and~~ available 24 hours a day, 7 days a week, ~~through~~
471 which provides immediate intensive assessments and
472 interventions, including screening for admission into a mental
473 health receiving facility, an addictions receiving facility, or
474 a detoxification facility, ~~take place~~ for the purpose of
475 identifying appropriate treatment services.

476 ~~(32)(20)~~ "Patient" means any person who is held or accepted
477 for mental health or substance abuse treatment.

478 ~~(33)(21)~~ "Physician" means a medical practitioner licensed
479 under chapter 458 or chapter 459 ~~who has experience in the~~
480 ~~diagnosis and treatment of mental and nervous disorders~~ or a
481 physician employed by a facility operated by the United States
482 Department of Veterans Affairs or the United States Department
483 of Defense ~~which qualifies as a receiving or treatment facility~~
484 ~~under this part.~~

485 ~~(34)~~ "Physician assistant" means a person licensed under
486 chapter 458 or chapter 459 who has experience in the diagnosis
487 and treatment of mental disorders.

488 ~~(35)(22)~~ "Private facility" means any hospital or facility
489 operated by a for-profit or not-for-profit corporation or
490 association which ~~that~~ provides mental health or substance abuse
491 services and is not a public facility.

492 ~~(36)(23)~~ "Psychiatric nurse" means an advanced registered
493 nurse practitioner certified under s. 464.012 who has a master's
494 or doctoral degree in psychiatric nursing, holds a national
495 advanced practice certification as a psychiatric mental health
496 advanced practice nurse, and has 2 years of post-master's

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497 clinical experience under the supervision of a physician.

498 ~~(37)-(24)~~ "Psychiatrist" means a medical practitioner
499 licensed under chapter 458 or chapter 459 ~~who has primarily~~
500 ~~diagnosed and treated mental and nervous disorders for at least~~
501 ~~a period of not less than~~ 3 years, inclusive of psychiatric
502 residency.

503 (38) "Psychologist" has the same meaning as provided in s.
504 490.003 or means a psychologist employed by a facility operated
505 by the United States Department of Veterans Affairs which
506 qualifies as a receiving or treatment facility under this part.

507 ~~(39)-(25)~~ "Public facility" means a a ~~any~~ facility that has
508 contracted with the department to provide mental health or
509 substance abuse services to all persons, regardless of ~~their~~
510 ability to pay, and is receiving state funds for such purpose.

511 (40) "Qualified professional" means a physician or a
512 physician assistant licensed under chapter 458 or chapter 459; a
513 professional licensed under chapter 490 or chapter 491; a
514 psychiatrist licensed under chapter 458 or chapter 459; or a
515 psychiatric nurse as defined in subsection (36).

516 ~~(41)-(26)~~ "Receiving facility" means any public or private
517 facility designated by the department to receive and hold or
518 refer, as appropriate, involuntary patients under emergency
519 conditions ~~or~~ for mental health or substance abuse ~~psychiatric~~
520 evaluation and to provide ~~short-term~~ treatment or transportation
521 to the appropriate service provider. The term does not include a
522 county jail.

523 ~~(42)-(27)~~ "Representative" means a person selected to
524 receive notice of proceedings during the time a patient is held
525 in or admitted to a receiving or treatment facility.

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526 ~~(43)(28)(a) "Restraint" means: a physical device, method,~~
527 ~~or drug used to control behavior.~~

528 (a) A physical restraint, including is any manual method or
529 physical or mechanical device, material, or equipment attached
530 or adjacent to an the individual's body so that he or she cannot
531 easily remove the restraint and which restricts freedom of
532 movement or normal access to one's body. Physical restraint
533 includes the physical holding of a person during a procedure to
534 forcibly administer psychotropic medication. Physical restraint
535 does not include physical devices such as orthopedically
536 prescribed appliances, surgical dressings and bandages,
537 supportive body bands, or other physical holding when necessary
538 for routine physical examinations and tests or for purposes of
539 orthopedic, surgical, or other similar medical treatment, when
540 used to provide support for the achievement of functional body
541 position or proper balance, or when used to protect a person
542 from falling out of bed.

543 ~~(b) A drug or used as a restraint is a medication used to~~
544 ~~control a the person's behavior or to restrict his or her~~
545 ~~freedom of movement which and is not part of the standard~~
546 ~~treatment regimen of a person with a diagnosed mental illness~~
547 ~~who is a client of the department. Physically holding a person~~
548 ~~during a procedure to forcibly administer psychotropic~~
549 ~~medication is a physical restraint.~~

550 ~~(c) Restraint does not include physical devices, such as~~
551 ~~orthopedically prescribed appliances, surgical dressings and~~
552 ~~bandages, supportive body bands, or other physical holding when~~
553 ~~necessary for routine physical examinations and tests; or for~~
554 ~~purposes of orthopedic, surgical, or other similar medical~~

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555 ~~treatment; when used to provide support for the achievement of~~
556 ~~functional body position or proper balance; or when used to~~
557 ~~protect a person from falling out of bed.~~

558 (44) "School psychologist" has the same meaning as in s.
559 490.003.

560 (45)~~(29)~~ "Seclusion" means the physical segregation ~~of a~~
561 ~~person in any fashion~~ or involuntary isolation of a person in a
562 room or area from which the person is prevented from leaving.
563 The prevention may be by physical barrier or by a staff member
564 who is acting in a manner, or who is physically situated, so as
565 to prevent the person from leaving the room or area. For
566 purposes of this part ~~chapter~~, the term does not mean isolation
567 due to a person's medical condition or symptoms.

568 (46)~~(30)~~ "Secretary" means the Secretary of Children and
569 Families.

570 (47) "Service provider" means a receiving facility, any
571 facility licensed under chapter 397, a treatment facility, an
572 entity under contract with the department to provide mental
573 health or substance abuse services, a community mental health
574 center or clinic, a psychologist, a clinical social worker, a
575 marriage and family therapist, a mental health counselor, a
576 physician, a psychiatrist, an advanced registered nurse
577 practitioner, a psychiatric nurse, or a qualified professional
578 as defined in this section.

579 (48) "Substance abuse impairment" means a condition
580 involving the use of alcoholic beverages or any psychoactive or
581 mood-altering substance in such a manner as to induce mental,
582 emotional, or physical problems and cause socially dysfunctional
583 behavior.

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584 ~~(49)(31)~~ "Transfer evaluation" means the process by which,
585 ~~as approved by the appropriate district office of the~~
586 ~~department, whereby~~ a person who is being considered for
587 placement in a state treatment facility is ~~first~~ evaluated for
588 appropriateness of admission to a state treatment ~~the~~ facility
589 ~~by a community-based public receiving facility or by a community~~
590 ~~mental health center or clinic if the public receiving facility~~
591 ~~is not a community mental health center or clinic.~~

592 ~~(50)(32)~~ "Treatment facility" means a any state-owned,
593 state-operated, or state-supported hospital, center, or clinic
594 designated by the department for extended treatment and
595 hospitalization, beyond that provided for by a receiving
596 facility, of persons who have a mental illness or substance
597 abuse disorders, including facilities of the United States
598 Government, and any private facility designated by the
599 department when rendering such services to a person pursuant to
600 the provisions of this part. Patients treated in facilities of
601 the United States Government shall be solely those whose care is
602 the responsibility of the United States Department of Veterans
603 Affairs.

604 ~~(51)~~ "Triage center" means a facility that is staffed by
605 medical, behavioral, and substance abuse professionals who
606 provide emergency screening and evaluation of individuals
607 transported to the center by a law enforcement officer.

608 ~~(33)~~ "~~Service provider~~" means ~~any public or private~~
609 ~~receiving facility, an entity under contract with the Department~~
610 ~~of Children and Families to provide mental health services, a~~
611 ~~clinical psychologist, a clinical social worker, a marriage and~~
612 ~~family therapist, a mental health counselor, a physician, a~~

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613 ~~psychiatric nurse as defined in subsection (23), or a community~~
614 ~~mental health center or clinic as defined in this part.~~

615 ~~(34) "Involuntary examination" means an examination~~
616 ~~performed under s. 394.463 to determine if an individual~~
617 ~~qualifies for involuntary inpatient treatment under s.~~
618 ~~394.467(1) or involuntary outpatient treatment under s.~~
619 ~~394.4655(1).~~

620 ~~(35) "Involuntary placement" means either involuntary~~
621 ~~outpatient treatment pursuant to s. 394.4655 or involuntary~~
622 ~~inpatient treatment pursuant to s. 394.467.~~

623 ~~(36) "Marriage and family therapist" means a person~~
624 ~~licensed as a marriage and family therapist under chapter 491.~~

625 ~~(37) "Mental health counselor" means a person licensed as a~~
626 ~~mental health counselor under chapter 491.~~

627 ~~(38) "Electronic means" means a form of telecommunication~~
628 ~~that requires all parties to maintain visual as well as audio~~
629 ~~communication.~~

630 Section 6. Section 394.4573, Florida Statutes, is amended
631 to read:

632 394.4573 Coordinated system of care; annual assessment;
633 essential elements ~~Continuity of care management system;~~
634 measures of performance; system improvement grants; reports.—On
635 or before October 1 of each year, the department shall submit to
636 the Governor, the President of the Senate, and the Speaker of
637 the House of Representatives an assessment of the behavioral
638 health services in this state in the context of the No-Wrong-
639 Door model and standards set forth in this section. The
640 department's assessment shall be based on both quantitative and
641 qualitative data and must identify any significant regional

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642 variations. The assessment must include information gathered
643 from managing entities, service providers, law enforcement,
644 judicial officials, local governments, behavioral health
645 consumers and their family members, and the public.

646 (1) As used in ~~For the purposes of~~ this section:

647 (a) "Case management" means those direct services provided
648 to a client in order to assess his or her activities aimed at
649 assessing client needs, plan or arrange planning services,
650 coordinate service providers, monitor linking the service system
651 to a client, coordinating the various system components,
652 monitoring service delivery, and evaluate patient outcomes
653 evaluating the effect of service delivery.

654 (b) "Case manager" means an individual who works with
655 clients, and their families and significant others, to provide
656 case management.

657 (c) "Client manager" means an employee of the managing
658 entity or entity under contract with the managing entity
659 department who is assigned to specific provider agencies and
660 geographic areas to ensure that the full range of needed
661 services is available to clients.

662 (d) "Coordinated system ~~Continuity of care management~~
663 ~~system~~" means ~~a system that assures, within available resources,~~
664 ~~that clients have access to~~ the full array of behavioral and
665 related services in a region or community offered by all service
666 providers, whether participating under contract with the
667 managing entity or another method of community partnership or
668 mutual agreement within the mental health services delivery
669 system.

670 (e) "No-Wrong-Door model" means a model for the delivery of

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671 health care services to persons who have mental health or
672 substance abuse disorders, or both, which optimizes access to
673 care, regardless of the entry point to the behavioral health
674 care system.

675 (2) The essential elements of a coordinated system of care
676 include:

677 (a) Community interventions, such as prevention, primary
678 care for behavioral health needs, therapeutic and supportive
679 services, crisis response services, and diversion programs.

680 (b) A designated receiving system consisting of one or more
681 facilities serving a defined geographic area and responsible for
682 assessment and evaluation, both voluntary and involuntary, and
683 treatment or triage for patients who present with mental
684 illness, substance abuse disorder, or co-occurring disorders.

685 The system must be authorized by each county or by several
686 counties, planned through an inclusive process, approved by the
687 managing entity, and documented through written memoranda of
688 agreement or other binding arrangements. The designated
689 receiving system may be organized in any of the following ways
690 so long as it functions as a No-Wrong-Door model that responds
691 to individual needs and integrates services among various
692 providers:

693 1. A central receiving system, which consists of a
694 designated central receiving facility that serves as a single
695 entry point for persons with mental health or substance abuse
696 disorders, or both. The designated receiving facility must be
697 capable of assessment, evaluation, and triage or treatment for
698 various conditions and circumstances.

699 2. A coordinated receiving system, which consists of

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700 multiple entry points that are linked by shared data systems,
701 formal referral agreements, and cooperative arrangements for
702 care coordination and case management. Each entry point must be
703 a designated receiving facility and must provide or arrange for
704 necessary services following an initial assessment and
705 evaluation.

706 3. A tiered receiving system, which consists of multiple
707 entry points, some of which offer only specialized or limited
708 services. Each service provider participating in the tiered
709 receiving system must be classified as a designated receiving
710 facility, a triage center, or an access center. All
711 participating service providers must be linked by shared data
712 systems, formal referral agreements, and cooperative
713 arrangements for care coordination and case management. An
714 accurate inventory of the participating service providers which
715 specifies the capabilities and limitations of each provider must
716 be maintained and made available at all times to all first
717 responders in the service area.

718 (c) Transportation in accordance with a plan developed
719 under s. 394.462.

720 (d) Crisis services, including mobile response teams,
721 crisis stabilization units, addiction receiving facilities, and
722 detoxification facilities.

723 (e) Case management, including intensive case management
724 for individuals determined to be high-need or high-utilization
725 individuals under s. 394.9082(2)(e).

726 (f) Outpatient services.

727 (g) Residential services.

728 (h) Hospital inpatient care.

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- 729 (i) Aftercare and other post-discharge services.
730 (j) Medication assistance and management.
731 (k) Recovery support, including housing assistance and
732 support for competitive employment, educational attainment,
733 independent living skills development, family support and
734 education, and wellness management and self-care.
- 735 (3) The department's annual assessment must compare the
736 status and performance of the extant behavioral health system
737 with the following standards and any other standards or measures
738 that the department determines to be applicable.
- 739 (a) The capacity of the contracted service providers to
740 meet estimated need when such estimates are based on credible
741 evidence and sound methodologies.
- 742 (b) The extent to which the behavioral health system uses
743 evidence-based practices and broadly disseminates the results of
744 quality improvement activities to all service providers.
- 745 (c) The degree to which services are offered in the least
746 restrictive and most appropriate therapeutic environment.
- 747 (d) The scope of systemwide accountability activities used
748 to monitor patient outcomes and measure continuous improvement
749 in the behavioral health system.
- 750 (4) Subject to a specific appropriation by the Legislature,
751 the department may award system improvement grants to managing
752 entities based on the submission of a detailed plan to enhance
753 services, coordination, or performance measurement in accordance
754 with the model and standards specified in this section. Such a
755 grant must be awarded through a performance-based contract that
756 links payments to the documented and measurable achievement of
757 system improvements ~~The department is directed to implement a~~

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758 ~~continuity of care management system for the provision of mental~~
759 ~~health care, through the provision of client and case~~
760 ~~management, including clients referred from state treatment~~
761 ~~facilities to community mental health facilities. Such system~~
762 ~~shall include a network of client managers and case managers~~
763 ~~throughout the state designed to:~~

764 ~~(a) Reduce the possibility of a client's admission or~~
765 ~~readmission to a state treatment facility.~~

766 ~~(b) Provide for the creation or designation of an agency in~~
767 ~~each county to provide single intake services for each person~~
768 ~~seeking mental health services. Such agency shall provide~~
769 ~~information and referral services necessary to ensure that~~
770 ~~clients receive the most appropriate and least restrictive form~~
771 ~~of care, based on the individual needs of the person seeking~~
772 ~~treatment. Such agency shall have a single telephone number,~~
773 ~~operating 24 hours per day, 7 days per week, where practicable,~~
774 ~~at a central location, where each client will have a central~~
775 ~~record.~~

776 ~~(c) Advocate on behalf of the client to ensure that all~~
777 ~~appropriate services are afforded to the client in a timely and~~
778 ~~dignified manner.~~

779 ~~(d) Require that any public receiving facility initiating a~~
780 ~~patient transfer to a licensed hospital for acute care mental~~
781 ~~health services not accessible through the public receiving~~
782 ~~facility shall notify the hospital of such transfer and send all~~
783 ~~records relating to the emergency psychiatric or medical~~
784 ~~condition.~~

785 ~~(3) The department is directed to develop and include in~~
786 ~~contracts with service providers measures of performance with~~

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787 ~~regard to goals and objectives as specified in the state plan.~~
788 ~~Such measures shall use, to the extent practical, existing data~~
789 ~~collection methods and reports and shall not require, as a~~
790 ~~result of this subsection, additional reports on the part of~~
791 ~~service providers. The department shall plan monitoring visits~~
792 ~~of community mental health facilities with other state, federal,~~
793 ~~and local governmental and private agencies charged with~~
794 ~~monitoring such facilities.~~

795 Section 7. Paragraphs (d) and (e) of subsection (2) of
796 section 394.4597, Florida Statutes, are amended to read:

797 394.4597 Persons to be notified; patient's representative.—

798 (2) INVOLUNTARY PATIENTS.—

799 (d) When the receiving or treatment facility selects a
800 representative, first preference shall be given to a health care
801 surrogate, if one has been previously selected by the patient.
802 If the patient has not previously selected a health care
803 surrogate, the selection, except for good cause documented in
804 the patient's clinical record, shall be made from the following
805 list in the order of listing:

- 806 1. The patient's spouse.
- 807 2. An adult child of the patient.
- 808 3. A parent of the patient.
- 809 4. The adult next of kin of the patient.
- 810 5. An adult friend of the patient.

811 ~~6. The appropriate Florida local advocacy council as~~
812 ~~provided in s. 402.166.~~

813 (e) The following persons are prohibited from selection as
814 a patient's representative:

- 815 1. A professional providing clinical services to the

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816 patient under this part.

817 2. The licensed professional who initiated the involuntary
818 examination of the patient, if the examination was initiated by
819 professional certificate.

820 3. An employee, an administrator, or a board member of the
821 facility providing the examination of the patient.

822 4. An employee, an administrator, or a board member of a
823 treatment facility providing treatment for the patient.

824 5. A person providing any substantial professional services
825 to the patient, including clinical and nonclinical services.

826 6. A creditor of the patient.

827 7. A person subject to an injunction for protection against
828 domestic violence under s. 741.30, whether the order of
829 injunction is temporary or final, and for which the patient was
830 the petitioner.

831 8. A person subject to an injunction for protection against
832 repeat violence, sexual violence, or dating violence under s.
833 784.046, whether the order of injunction is temporary or final,
834 and for which the patient was the petitioner ~~A licensed~~
835 ~~professional providing services to the patient under this part,~~
836 ~~an employee of a facility providing direct services to the~~
837 ~~patient under this part, a department employee, a person~~
838 ~~providing other substantial services to the patient in a~~
839 ~~professional or business capacity, or a creditor of the patient~~
840 ~~shall not be appointed as the patient's representative.~~

841 Section 8. Present subsections (2) through (7) of section
842 394.4598, Florida Statutes, are redesignated as subsections (3)
843 through (8), respectively, a new subsection (2) is added to that
844 section, and present subsections (3) and (4) of that section are

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845 amended, to read:

846 394.4598 Guardian advocate.—

847 (2) The following persons are prohibited from appointment
848 as a patient's guardian advocate:

849 (a) A professional providing clinical services to the
850 patient under this part.

851 (b) The licensed professional who initiated the involuntary
852 examination of the patient, if the examination was initiated by
853 professional certificate.

854 (c) An employee, an administrator, or a board member of the
855 facility providing the examination of the patient.

856 (d) An employee, an administrator, or a board member of a
857 treatment facility providing treatment of the patient.

858 (e) A person providing any substantial professional
859 services to the patient, including clinical and nonclinical
860 services.

861 (f) A creditor of the patient.

862 (g) A person subject to an injunction for protection
863 against domestic violence under s. 741.30, whether the order of
864 injunction is temporary or final, and for which the patient was
865 the petitioner.

866 (h) A person subject to an injunction for protection
867 against repeat violence, sexual violence, or dating violence
868 under s. 784.046, whether the order of injunction is temporary
869 or final, and for which the patient was the petitioner.

870 (4) ~~(3)~~ In lieu of the training required of guardians
871 appointed pursuant to chapter 744, ~~Prior to~~ a guardian advocate
872 must attend at least a 4-hour training course approved by the
873 court before exercising his or her authority, ~~the guardian~~

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874 ~~advocate shall attend a training course approved by the court.~~
 875 At a minimum, ~~this training course, of not less than 4 hours,~~
 876 ~~must include, at minimum,~~ information about the patient rights,
 877 psychotropic medications, the diagnosis of mental illness, the
 878 ethics of medical decisionmaking, and duties of guardian
 879 advocates. ~~This training course shall take the place of the~~
 880 ~~training required for guardians appointed pursuant to chapter~~
 881 ~~744.~~

882 (5)(4) The required training course and the information to
 883 be supplied to prospective guardian advocates before ~~prior to~~
 884 ~~their appointment and the training course for guardian advocates~~
 885 ~~must be developed and completed through a course developed by~~
 886 ~~the department, and approved by the chief judge of the circuit~~
 887 ~~court, and taught by a court-approved organization, which-~~
 888 ~~Court-approved organizations~~ may include, but is ~~are~~ not limited
 889 to, a community college ~~community or junior colleges, a~~
 890 guardianship organization ~~guardianship organizations, a~~ and the
 891 local bar association, or The Florida Bar. The court may, ~~in its~~
 892 ~~discretion,~~ waive some or all of the training requirements for
 893 guardian advocates or impose additional requirements. The court
 894 shall make its decision on a case-by-case basis and, in making
 895 its decision, shall consider the experience and education of the
 896 guardian advocate, the duties assigned to the guardian advocate,
 897 and the needs of the patient.

898 Section 9. Section 394.462, Florida Statutes, is amended to
 899 read:

900 394.462 Transportation.-A transportation plan must be
 901 developed and implemented in each county in accordance with this
 902 section. A county may enter into a memorandum of understanding

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903 with the governing boards of nearby counties to establish a
904 shared transportation plan. When multiple counties enter into a
905 memorandum of understanding for this purpose, the managing
906 entity must be notified and provided a copy of the agreement.
907 The transportation plan must specify methods of transport to a
908 facility within the designated receiving system and may delegate
909 responsibility for other transportation to a participating
910 facility when necessary and agreed to by the facility. The plan
911 must ensure that individuals who meet the criteria for
912 involuntary assessment and evaluation pursuant to ss. 394.463
913 and 397.675 will be transported. The plan may rely on emergency
914 medical transport services or private transport companies as
915 appropriate.

916 (1) TRANSPORTATION TO A RECEIVING FACILITY.-

917 (a) Each county shall designate a single law enforcement
918 agency within the county, or portions thereof, to take a person
919 into custody upon the entry of an ex parte order or the
920 execution of a certificate for involuntary examination by an
921 authorized professional and to transport that person to an
922 appropriate facility within the designated receiving system ~~the~~
923 ~~nearest receiving facility~~ for examination.

924 (b)1. The designated law enforcement agency may decline to
925 transport the person to a receiving facility only if:

926 a.1. The jurisdiction designated by the county has
927 contracted on an annual basis with an emergency medical
928 transport service or private transport company for
929 transportation of persons to receiving facilities pursuant to
930 this section at the sole cost of the county; and

931 b.2. The law enforcement agency and the emergency medical

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932 transport service or private transport company agree that the
 933 continued presence of law enforcement personnel is not necessary
 934 for the safety of the person or others.

935 ~~2.3.~~ The entity providing transportation jurisdiction
 936 ~~designated by the county~~ may seek reimbursement for
 937 transportation expenses. The party responsible for payment for
 938 such transportation is the person receiving the transportation.
 939 The county shall seek reimbursement from the following sources
 940 in the following order:

941 a. From a private or public third-party payor ~~an insurance~~
 942 ~~company, health care corporation, or other source~~, if the person
 943 receiving the transportation has applicable coverage ~~is covered~~
 944 ~~by an insurance policy or subscribes to a health care~~
 945 ~~corporation or other source for payment of such expenses.~~

946 b. From the person receiving the transportation.

947 c. From a financial settlement for medical care, treatment,
 948 hospitalization, or transportation payable or accruing to the
 949 injured party.

950 ~~(c)-(b)~~ A Any company that transports a patient pursuant to
 951 this subsection is considered an independent contractor and is
 952 solely liable for the safe and dignified transport
 953 ~~transportation~~ of the patient. Such company must be insured and
 954 provide no less than \$100,000 in liability insurance with
 955 respect to the transport ~~transportation~~ of patients.

956 ~~(d)-(e)~~ Any company that contracts with a governing board of
 957 a county to transport patients shall comply with the applicable
 958 rules of the department to ensure the safety and dignity of ~~the~~
 959 patients.

960 ~~(e)-(d)~~ When a law enforcement officer takes custody of a

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961 person pursuant to this part, the officer may request assistance
962 from emergency medical personnel if such assistance is needed
963 for the safety of the officer or the person in custody.

964 (f)~~(e)~~ When a member of a mental health overlay program or
965 a mobile crisis response service is a professional authorized to
966 initiate an involuntary examination pursuant to s. 394.463 or s.
967 397.675 and that professional evaluates a person and determines
968 that transportation to a receiving facility is needed, the
969 service, at its discretion, may transport the person to the
970 facility or may call on the law enforcement agency or other
971 transportation arrangement best suited to the needs of the
972 patient.

973 (g)~~(f)~~ When any law enforcement officer has custody of a
974 person based on either noncriminal or minor criminal behavior
975 that meets the statutory guidelines for involuntary examination
976 under this part, the law enforcement officer shall transport the
977 person to an appropriate ~~the nearest receiving~~ facility within
978 the designated receiving system for examination.

979 (h)~~(g)~~ When any law enforcement officer has arrested a
980 person for a felony and it appears that the person meets the
981 statutory guidelines for involuntary examination or placement
982 under this part, such person must ~~shall~~ first be processed in
983 the same manner as any other criminal suspect. The law
984 enforcement agency shall thereafter immediately notify the
985 appropriate ~~nearest public receiving~~ facility within the
986 designated receiving system, which shall be responsible for
987 promptly arranging for the examination and treatment of the
988 person. A receiving facility is not required to admit a person
989 charged with a crime for whom the facility determines and

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990 documents that it is unable to provide adequate security, but
991 shall provide ~~mental health~~ examination and treatment to the
992 person where he or she is held.

993 (i)~~(h)~~ If the appropriate law enforcement officer believes
994 that a person has an emergency medical condition as defined in
995 s. 395.002, the person may be first transported to a hospital
996 for emergency medical treatment, regardless of whether the
997 hospital is a designated receiving facility.

998 (j)~~(i)~~ The costs of transportation, evaluation,
999 hospitalization, and treatment incurred under this subsection by
1000 persons who have been arrested for violations of any state law
1001 or county or municipal ordinance may be recovered as provided in
1002 s. 901.35.

1003 (k)~~(j)~~ The ~~nearest receiving facility within the designated~~
1004 receiving system must accept persons brought by law enforcement
1005 officers, an emergency medical transport service, or a private
1006 transport company for involuntary examination.

1007 (l)~~(k)~~ Each law enforcement agency designated pursuant to
1008 paragraph (a) shall establish a policy that ~~develop a memorandum~~
1009 ~~of understanding with each receiving facility within the law~~
1010 ~~enforcement agency's jurisdiction which~~ reflects a single set of
1011 protocols approved by the managing entity for the safe and
1012 secure transportation ~~of the person~~ and transfer of custody of
1013 the person. ~~These protocols must also address crisis~~
1014 ~~intervention measures.~~

1015 (m)~~(l)~~ When a jurisdiction has entered into a contract with
1016 an emergency medical transport service or a private transport
1017 company for transportation of persons to ~~receiving~~ facilities
1018 within the designated receiving system, such service or company

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1019 shall be given preference for transportation of persons from
1020 nursing homes, assisted living facilities, adult day care
1021 centers, or adult family-care homes, unless the behavior of the
1022 person being transported is such that transportation by a law
1023 enforcement officer is necessary.

1024 ~~(n) (m) Nothing in~~ This section may not ~~shall~~ be construed
1025 to limit emergency examination and treatment of incapacitated
1026 persons provided in accordance with ~~the provisions of~~ s.
1027 401.445.

1028 (2) TRANSPORTATION TO A TREATMENT FACILITY.—

1029 (a) If neither the patient nor any person legally obligated
1030 or responsible for the patient is able to pay for the expense of
1031 transporting a voluntary or involuntary patient to a treatment
1032 facility, the transportation plan established by the governing
1033 board of the county or counties must specify how in which the
1034 hospitalized patient will be transported to, from, and between
1035 facilities in a ~~is hospitalized shall arrange for such required~~
1036 ~~transportation and shall ensure the safe and dignified manner~~
1037 ~~transportation of the patient. The governing board of each~~
1038 ~~county is authorized to contract with private transport~~
1039 ~~companies for the transportation of such patients to and from a~~
1040 ~~treatment facility.~~

1041 (b) A ~~Any~~ company that transports a patient pursuant to
1042 this subsection is considered an independent contractor and is
1043 solely liable for the safe and dignified transportation of the
1044 patient. Such company must be insured and provide no less than
1045 \$100,000 in liability insurance with respect to the transport
1046 ~~transportation~~ of patients.

1047 (c) A ~~Any~~ company that contracts with one or more counties

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1048 ~~the governing board of a county~~ to transport patients in
 1049 accordance with this section shall comply with the applicable
 1050 rules of the department to ensure the safety and dignity of ~~the~~
 1051 patients.

1052 (d) County or municipal law enforcement and correctional
 1053 personnel and equipment may ~~shall~~ not be used to transport
 1054 patients adjudicated incapacitated or found by the court to meet
 1055 the criteria for involuntary placement pursuant to s. 394.467,
 1056 except in small rural counties where there are no cost-efficient
 1057 alternatives.

1058 (3) TRANSFER OF CUSTODY.—Custody of a person who is
 1059 transported pursuant to this part, along with related
 1060 documentation, shall be relinquished to a responsible individual
 1061 at the appropriate receiving or treatment facility.

1062 ~~(4) EXCEPTIONS. An exception to the requirements of this~~
 1063 ~~section may be granted by the secretary of the department for~~
 1064 ~~the purposes of improving service coordination or better meeting~~
 1065 ~~the special needs of individuals. A proposal for an exception~~
 1066 ~~must be submitted by the district administrator after being~~
 1067 ~~approved by the governing boards of any affected counties, prior~~
 1068 ~~to submission to the secretary.~~

1069 ~~(a) A proposal for an exception must identify the specific~~
 1070 ~~provision from which an exception is requested; describe how the~~
 1071 ~~proposal will be implemented by participating law enforcement~~
 1072 ~~agencies and transportation authorities; and provide a plan for~~
 1073 ~~the coordination of services such as case management.~~

1074 ~~(b) The exception may be granted only for:~~

1075 ~~1. An arrangement centralizing and improving the provision~~
 1076 ~~of services within a district, which may include an exception to~~

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1077 ~~the requirement for transportation to the nearest receiving~~
1078 ~~facility;~~

1079 ~~2. An arrangement by which a facility may provide, in~~
1080 ~~addition to required psychiatric services, an environment and~~
1081 ~~services which are uniquely tailored to the needs of an~~
1082 ~~identified group of persons with special needs, such as persons~~
1083 ~~with hearing impairments or visual impairments, or elderly~~
1084 ~~persons with physical frailties; or~~

1085 ~~3. A specialized transportation system that provides an~~
1086 ~~efficient and humane method of transporting patients to~~
1087 ~~receiving facilities, among receiving facilities, and to~~
1088 ~~treatment facilities.~~

1089 ~~(c) Any exception approved pursuant to this subsection~~
1090 ~~shall be reviewed and approved every 5 years by the secretary.~~

1091 Section 10. Subsection (2) of section 394.463, Florida
1092 Statutes, is amended to read:

1093 394.463 Involuntary examination.—

1094 (2) INVOLUNTARY EXAMINATION.—

1095 (a) An involuntary examination may be initiated by any one
1096 of the following means:

1097 1. A circuit or county court may enter an ex parte order
1098 stating that a person appears to meet the criteria for
1099 involuntary examination and specifying, ~~giving~~ the findings on
1100 which that conclusion is based. The ex parte order for
1101 involuntary examination must be based on written or oral sworn
1102 testimony that includes specific facts that support the
1103 findings, ~~written or oral~~. If other, less restrictive, means are
1104 not available, such as voluntary appearance for outpatient
1105 evaluation, a law enforcement officer, or other designated agent

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1106 of the court, shall take the person into custody and deliver him
1107 or her to an appropriate ~~the nearest receiving~~ facility within
1108 the designated receiving system for involuntary examination. The
1109 order of the court shall be made a part of the patient's
1110 clinical record. A ~~No~~ fee may not ~~shall~~ be charged for the
1111 filing of an order under this subsection. Any ~~receiving~~ facility
1112 accepting the patient based on this order must send a copy of
1113 the order to the managing entity in the region and to the
1114 department ~~Agency for Health Care Administration~~ on the next
1115 working day. The order shall be valid only until the person is
1116 delivered to the appropriate facility ~~executed~~ or, ~~if not~~
1117 ~~executed,~~ for the period specified in the order itself,
1118 whichever comes first. If no time limit is specified in the
1119 order, the order shall be valid for 7 days after the date that
1120 the order was signed.

1121 2. A law enforcement officer shall take a person who
1122 appears to meet the criteria for involuntary examination into
1123 custody and deliver the person or have him or her delivered to
1124 the appropriate ~~nearest receiving~~ facility within the designated
1125 receiving system for examination. The officer shall execute a
1126 written report detailing the circumstances under which the
1127 person was taken into custody, which must ~~and the report shall~~
1128 be made a part of the patient's clinical record. Any ~~receiving~~
1129 facility accepting the patient based on this report must send a
1130 copy of the report to the department and the managing entity
1131 ~~Agency for Health Care Administration~~ on the next working day.

1132 3. A physician, ~~clinical~~ psychologist, psychiatric nurse,
1133 mental health counselor, marriage and family therapist, or
1134 clinical social worker may execute a certificate stating that he

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1135 or she has examined a person within the preceding 48 hours and
1136 finds that the person appears to meet the criteria for
1137 involuntary examination and stating the observations upon which
1138 that conclusion is based. If other, less restrictive means, such
1139 as voluntary appearance for outpatient evaluation, are not
1140 available, ~~such as voluntary appearance for outpatient~~
1141 ~~evaluation,~~ a law enforcement officer shall take into custody
1142 the person named in the certificate ~~into custody~~ and deliver him
1143 or her to the appropriate nearest receiving facility within the
1144 designated receiving system for involuntary examination. The law
1145 enforcement officer shall execute a written report detailing the
1146 circumstances under which the person was taken into custody. The
1147 report and certificate shall be made a part of the patient's
1148 clinical record. Any ~~receiving~~ facility accepting the patient
1149 based on this certificate must send a copy of the certificate to
1150 the managing entity and the department ~~Agency for Health Care~~
1151 ~~Administration~~ on the next working day.

1152 (b) A person may ~~shall~~ not be removed from any program or
1153 residential placement licensed under chapter 400 or chapter 429
1154 and transported to a receiving facility for involuntary
1155 examination unless an ex parte order, a professional
1156 certificate, or a law enforcement officer's report is first
1157 prepared. If the condition of the person is such that
1158 preparation of a law enforcement officer's report is not
1159 practicable before removal, the report shall be completed as
1160 soon as possible after removal, but in any case before the
1161 person is transported to a receiving facility. A ~~receiving~~
1162 facility admitting a person for involuntary examination who is
1163 not accompanied by the required ex parte order, professional

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1164 certificate, or law enforcement officer's report shall notify
1165 the managing entity and the department ~~Agency for Health Care~~
1166 ~~Administration~~ of such admission by certified mail or by
1167 electronic means if available, by no later than the next working
1168 day. The provisions of this paragraph do not apply when
1169 transportation is provided by the patient's family or guardian.

1170 (c) A law enforcement officer acting in accordance with an
1171 ex parte order issued pursuant to this subsection may serve and
1172 execute such order on any day of the week, at any time of the
1173 day or night.

1174 (d) A law enforcement officer acting in accordance with an
1175 ex parte order issued pursuant to this subsection may use such
1176 reasonable physical force as is necessary to gain entry to the
1177 premises, and any dwellings, buildings, or other structures
1178 located on the premises, and to take custody of the person who
1179 is the subject of the ex parte order.

1180 (e) The managing entity and the department ~~Agency for~~
1181 ~~Health Care Administration~~ shall receive and maintain the copies
1182 of ex parte petitions and orders, involuntary outpatient
1183 services placement orders issued pursuant to s. 394.4655,
1184 involuntary inpatient placement orders issued pursuant to s.
1185 394.467, professional certificates, and law enforcement
1186 officers' reports. These documents shall be considered part of
1187 the clinical record, governed by the provisions of s. 394.4615.
1188 These documents shall be provided by the department to the
1189 Agency for Health Care Administration and used by the agency to
1190 ~~The agency shall~~ prepare annual reports analyzing the data
1191 obtained from these documents, without information identifying
1192 patients, and shall provide copies of reports to the department,

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1193 the President of the Senate, the Speaker of the House of
1194 Representatives, and the minority leaders of the Senate and the
1195 House of Representatives.

1196 (f) A patient shall be examined by a physician or, a
1197 psychologist ~~clinical psychologist~~, or by a psychiatric nurse
1198 performing within the framework of an established protocol with
1199 a psychiatrist at a ~~receiving~~ facility without unnecessary delay
1200 to determine if the criteria for involuntary services are met.
1201 Emergency treatment may be provided ~~and may~~, upon the order of a
1202 physician, if the physician determines ~~be given emergency~~
1203 ~~treatment if it is determined~~ that such treatment is necessary
1204 for the safety of the patient or others. The patient may not be
1205 released by the receiving facility or its contractor without the
1206 documented approval of a psychiatrist or a psychologist ~~clinical~~
1207 ~~psychologist or, if the receiving facility is owned or operated~~
1208 ~~by a hospital or health system, the release may also be approved~~
1209 ~~by~~ a psychiatric nurse performing within the framework of an
1210 established protocol with a psychiatrist, or an attending
1211 emergency department physician with experience in the diagnosis
1212 and treatment of mental illness ~~and nervous disorders~~ and after
1213 completion of an involuntary examination pursuant to this
1214 subsection. A psychiatric nurse may not approve the release of a
1215 patient if the involuntary examination was initiated by a
1216 psychiatrist unless the release is approved by the initiating
1217 psychiatrist. ~~However, a patient may not be held in a receiving~~
1218 ~~facility for involuntary examination longer than 72 hours.~~

1219 (g) A person may not be held for involuntary examination
1220 for more than 72 hours from the time of his or her arrival at
1221 the facility. Based on the person's needs, one of the following

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1222 actions must be taken within the involuntary examination period:

1223 1. The person must be released with the approval of a
1224 physician, psychiatrist, psychiatric nurse, or psychologist.

1225 However, if the examination is conducted in a hospital, an
1226 attending emergency department physician with experience in the
1227 diagnosis and treatment of mental illness may approve the
1228 release. The professional approving the release must have
1229 personally conducted the involuntary examination.

1230 2. The person must be asked to give express and informed
1231 consent for voluntary admission if a physician, psychiatrist,
1232 psychiatric nurse, or psychologist has determined that the
1233 individual is competent to consent to treatment.

1234 3. A petition for involuntary services must be completed
1235 and filed in the circuit court by the facility administrator. If
1236 electronic filing of the petition is not available in the county
1237 and the 72-hour period ends on a weekend or legal holiday, the
1238 petition must be filed by the next working day. If involuntary
1239 services are deemed necessary, the least restrictive treatment
1240 consistent with the optimum improvement of the person's
1241 condition must be made available.

1242 (h) An individual discharged from a facility on a voluntary
1243 or an involuntary basis who is currently charged with a crime
1244 shall be released to the custody of a law enforcement officer,
1245 unless the individual has been released from law enforcement
1246 custody by posting of a bond, by a pretrial conditional release,
1247 or by other judicial release.

1248 (i) ~~(g)~~ A person for whom an involuntary examination has
1249 been initiated who is being evaluated or treated at a hospital
1250 for an emergency medical condition specified in s. 395.002 must

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1251 be examined by an appropriate ~~a receiving~~ facility within 72
 1252 hours. The 72-hour period begins when the patient arrives at the
 1253 hospital and ceases when the attending physician documents that
 1254 the patient has an emergency medical condition. If the patient
 1255 is examined at a hospital providing emergency medical services
 1256 by a professional qualified to perform an involuntary
 1257 examination and is found as a result of that examination not to
 1258 meet the criteria for involuntary outpatient services ~~placement~~
 1259 pursuant to s. 394.4655(1) or involuntary inpatient placement
 1260 pursuant to s. 394.467(1), the patient may be offered voluntary
 1261 placement, if appropriate, or released directly from the
 1262 hospital providing emergency medical services. The finding by
 1263 the professional that the patient has been examined and does not
 1264 meet the criteria for involuntary inpatient placement or
 1265 involuntary outpatient services ~~placement~~ must be entered into
 1266 the patient's clinical record. ~~Nothing in~~ This paragraph is not
 1267 intended to prevent a hospital providing emergency medical
 1268 services from appropriately transferring a patient to another
 1269 hospital before ~~prior to~~ stabilization if, ~~provided~~ the
 1270 requirements of s. 395.1041(3)(c) have been met.

1271 (j) ~~(h)~~ One of the following must occur within 12 hours
 1272 after the patient's attending physician documents that the
 1273 patient's medical condition has stabilized or that an emergency
 1274 medical condition does not exist:

- 1275 1. The patient must be examined by an appropriate ~~a~~
 1276 ~~designated receiving~~ facility and released; or
- 1277 2. The patient must be transferred to a designated
 1278 ~~receiving~~ facility in which appropriate medical treatment is
 1279 available. However, the ~~receiving~~ facility must be notified of

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1280 the transfer within 2 hours after the patient's condition has
1281 been stabilized or after determination that an emergency medical
1282 condition does not exist.

1283 ~~(i) Within the 72-hour examination period or, if the 72~~
1284 ~~hours ends on a weekend or holiday, no later than the next~~
1285 ~~working day thereafter, one of the following actions must be~~
1286 ~~taken, based on the individual needs of the patient:~~

1287 ~~1. The patient shall be released, unless he or she is~~
1288 ~~charged with a crime, in which case the patient shall be~~
1289 ~~returned to the custody of a law enforcement officer;~~

1290 ~~2. The patient shall be released, subject to the provisions~~
1291 ~~of subparagraph 1., for voluntary outpatient treatment;~~

1292 ~~3. The patient, unless he or she is charged with a crime,~~
1293 ~~shall be asked to give express and informed consent to placement~~
1294 ~~as a voluntary patient, and, if such consent is given, the~~
1295 ~~patient shall be admitted as a voluntary patient; or~~

1296 ~~4. A petition for involuntary placement shall be filed in~~
1297 ~~the circuit court when outpatient or inpatient treatment is~~
1298 ~~deemed necessary. When inpatient treatment is deemed necessary,~~
1299 ~~the least restrictive treatment consistent with the optimum~~
1300 ~~improvement of the patient's condition shall be made available.~~
1301 ~~When a petition is to be filed for involuntary outpatient~~
1302 ~~placement, it shall be filed by one of the petitioners specified~~
1303 ~~in s. 394.4655(3)(a). A petition for involuntary inpatient~~
1304 ~~placement shall be filed by the facility administrator.~~

1305 Section 11. Section 394.4655, Florida Statutes, is amended
1306 to read:

1307 394.4655 Involuntary outpatient services placement.-

1308 (1) CRITERIA FOR INVOLUNTARY OUTPATIENT SERVICES

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1309 ~~PLACEMENT.~~—A person may be ordered to involuntary outpatient
1310 services placement upon a finding of the court, by clear and
1311 convincing evidence, that the person meets all of the following
1312 criteria ~~by clear and convincing evidence:~~

1313 (a) The person is 18 years of age or older.†

1314 (b) The person has a mental illness.†

1315 (c) The person is unlikely to survive safely in the
1316 community without supervision, based on a clinical
1317 determination.†

1318 (d) The person has a history of lack of compliance with
1319 treatment for mental illness.†

1320 (e) The person has:

1321 1. At least twice within the immediately preceding 36
1322 months been involuntarily admitted to a receiving or treatment
1323 facility as defined in s. 394.455, or has received mental health
1324 services in a forensic or correctional facility. The 36-month
1325 period does not include any period during which the person was
1326 admitted or incarcerated; or

1327 2. Engaged in one or more acts of serious violent behavior
1328 toward self or others, or attempts at serious bodily harm to
1329 himself or herself or others, within the preceding 36 months.†

1330 (f) The person is, as a result of his or her mental
1331 illness, unlikely to voluntarily participate in the recommended
1332 treatment plan and ~~either he or she~~ has refused voluntary
1333 services placement for treatment after sufficient and
1334 conscientious explanation and disclosure of why the services are
1335 necessary ~~purpose of placement for treatment~~ or he or she is
1336 unable to determine for himself or herself whether services are
1337 ~~placement is~~ necessary.†

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1338 (g) In view of the person's treatment history and current
 1339 behavior, the person is in need of involuntary outpatient
 1340 services ~~placement~~ in order to prevent a relapse or
 1341 deterioration that would be likely to result in serious bodily
 1342 harm to himself or herself or others, or a substantial harm to
 1343 his or her well-being as set forth in s. 394.463(1).~~†~~

1344 (h) It is likely that the person will benefit from
 1345 involuntary outpatient services. ~~placement; and~~

1346 (i) All available, less restrictive alternatives that would
 1347 offer an opportunity for improvement of his or her condition
 1348 have been judged to be inappropriate or unavailable.

1349 (2) INVOLUNTARY OUTPATIENT SERVICES ~~PLACEMENT~~.—

1350 (a)1. A patient who is being recommended for involuntary
 1351 outpatient services ~~placement~~ by the administrator of the
 1352 ~~receiving~~ facility where the patient has been examined may be
 1353 retained by the facility after adherence to the notice
 1354 procedures provided in s. 394.4599. The recommendation must be
 1355 supported by the opinion of two qualified professionals ~~a~~
 1356 ~~psychiatrist and the second opinion of a clinical psychologist~~
 1357 ~~or another psychiatrist~~, both of whom have personally examined
 1358 the patient within the preceding 72 hours, that the criteria for
 1359 involuntary outpatient services ~~placement~~ are met. However, in a
 1360 county having a population of fewer than 50,000, if the
 1361 administrator certifies that a qualified professional
 1362 ~~psychiatrist or clinical psychologist~~ is not available to
 1363 provide the second opinion, the second opinion may be provided
 1364 by a ~~licensed~~ physician who has postgraduate training and
 1365 experience in diagnosis and treatment of mental ~~and nervous~~
 1366 disorders or by a psychiatric nurse. Any second opinion

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1367 authorized in this subparagraph may be conducted through a face-
1368 to-face examination, in person or by electronic means, including
1369 telemedicine. Such recommendation must be entered on an
1370 involuntary outpatient services placement certificate that
1371 authorizes the ~~receiving~~ facility to retain the patient pending
1372 completion of a hearing. The certificate must ~~shall~~ be made a
1373 part of the patient's clinical record.

1374 2. If the patient has been stabilized and no longer meets
1375 the criteria for involuntary examination pursuant to s.
1376 394.463(1), the patient must be released from the ~~receiving~~
1377 facility while awaiting the hearing for involuntary outpatient
1378 services placement. Before filing a petition for involuntary
1379 outpatient services treatment, the administrator of the a
1380 ~~receiving~~ facility or a designated department representative
1381 must identify the service provider that will have primary
1382 responsibility for service provision under an order for
1383 involuntary outpatient services placement, unless the person is
1384 otherwise participating in outpatient psychiatric treatment and
1385 is not in need of public financing for that treatment, in which
1386 case the individual, if eligible, may be ordered to involuntary
1387 treatment pursuant to the existing psychiatric treatment
1388 relationship.

1389 3. The service provider shall prepare a written proposed
1390 treatment plan in consultation with the patient or the patient's
1391 guardian advocate, if appointed, for the court's consideration
1392 for inclusion in the involuntary outpatient services placement
1393 order. The service provider shall also provide a copy of the
1394 proposed treatment plan to the patient and the administrator of
1395 the ~~receiving~~ facility. The treatment plan must specify the

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1396 nature and extent of the patient's mental illness, address the
1397 reduction of symptoms that necessitate involuntary outpatient
1398 services placement, and include measurable goals and objectives
1399 for the services ~~and treatment~~ that are provided to treat the
1400 person's mental illness and assist the person in living and
1401 functioning in the community or to prevent a relapse or
1402 deterioration. Service providers may select and supervise other
1403 individuals to implement specific aspects of the treatment plan.
1404 The services in the ~~treatment~~ plan must be deemed clinically
1405 appropriate by a physician, ~~clinical~~ psychologist, psychiatric
1406 nurse, mental health counselor, marriage and family therapist,
1407 or clinical social worker who consults with, or is employed or
1408 contracted by, the service provider. The service provider must
1409 certify to the court in the proposed treatment plan whether
1410 sufficient services for improvement and stabilization are
1411 currently available and whether the service provider agrees to
1412 provide those services. If the service provider certifies that
1413 the services in the proposed treatment plan are not available,
1414 the petitioner may not file the petition. The service provider
1415 must document its inquiry with the department and the managing
1416 entity as to the availability of the requested services. The
1417 managing entity must document such efforts to obtain the
1418 requested services.

1419 (b) If a patient in involuntary inpatient placement meets
1420 the criteria for involuntary outpatient services placement, the
1421 administrator of the ~~treatment~~ facility may, before the
1422 expiration of the period during which the ~~treatment~~ facility is
1423 authorized to retain the patient, recommend involuntary
1424 outpatient services placement. The recommendation must be

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1425 supported by the opinion of two qualified professionals a
1426 ~~psychiatrist and the second opinion of a clinical psychologist~~
1427 ~~or another psychiatrist~~, both of whom have personally examined
1428 the patient within the preceding 72 hours, that the criteria for
1429 involuntary outpatient services placement are met. However, in a
1430 county having a population of fewer than 50,000, if the
1431 administrator certifies that a qualified professional
1432 ~~psychiatrist or clinical psychologist~~ is not available to
1433 provide the second opinion, the second opinion may be provided
1434 by a ~~licensed~~ physician who has postgraduate training and
1435 experience in diagnosis and treatment of mental ~~and nervous~~
1436 disorders or by a psychiatric nurse. Any second opinion
1437 authorized in this paragraph ~~subparagraph~~ may be conducted
1438 through a face-to-face examination, in person or by electronic
1439 means including telemedicine. Such recommendation must be
1440 entered on an involuntary outpatient services placement
1441 certificate, and the certificate must be made a part of the
1442 patient's clinical record.

1443 (c)1. The administrator of the ~~treatment~~ facility shall
1444 provide a copy of the involuntary outpatient services placement
1445 certificate and a copy of the state mental health discharge form
1446 to a department representative in the county where the patient
1447 will be residing. For persons who are leaving a state mental
1448 health treatment facility, the petition for involuntary
1449 outpatient services placement must be filed in the county where
1450 the patient will be residing.

1451 2. The service provider that will have primary
1452 responsibility for service provision shall be identified by the
1453 designated department representative before ~~prior to~~ the order

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1454 for involuntary outpatient services ~~placement~~ and must, before
1455 ~~prior to~~ filing a petition for involuntary outpatient services
1456 ~~placement~~, certify to the court whether the services recommended
1457 in the patient's discharge plan are available ~~in the local~~
1458 ~~community~~ and whether the service provider agrees to provide
1459 those services. The service provider must develop with the
1460 patient, or the patient's guardian advocate, if appointed, a
1461 treatment or service plan that addresses the needs identified in
1462 the discharge plan. The plan must be deemed to be clinically
1463 appropriate by a physician, ~~clinical~~ psychologist, psychiatric
1464 nurse, mental health counselor, marriage and family therapist,
1465 or clinical social worker, as defined in this chapter, who
1466 consults with, or is employed or contracted by, the service
1467 provider.

1468 3. If the service provider certifies that the services in
1469 the proposed treatment or service plan are not available, the
1470 petitioner may not file the petition. The service provider must
1471 document its inquiry with the department and the managing entity
1472 as to the availability of the requested services. The managing
1473 entity must document such efforts to obtain the requested
1474 services.

1475 (3) PETITION FOR INVOLUNTARY OUTPATIENT SERVICES
1476 ~~PLACEMENT~~.—

1477 (a) A petition for involuntary outpatient services
1478 ~~placement~~ may be filed by:

- 1479 1. The administrator of a receiving facility; or
- 1480 2. The administrator of a treatment facility.

1481 (b) Each required criterion for involuntary outpatient
1482 services ~~placement~~ must be alleged and substantiated in the

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1483 petition for involuntary outpatient services placement. A copy
1484 of the certificate recommending involuntary outpatient services
1485 ~~placement~~ completed by two a qualified professionals
1486 ~~professional specified in subsection (2)~~ must be attached to the
1487 petition. A copy of the proposed treatment plan must be attached
1488 to the petition. Before the petition is filed, the service
1489 provider shall certify that the services in the proposed
1490 treatment plan are available. If the necessary services are not
1491 available ~~in the patient's local community to respond to the~~
1492 ~~person's individual needs~~, the petition may not be filed. The
1493 service provider must document its inquiry with the department
1494 and the managing entity as to the availability of the requested
1495 services. The managing entity must document such efforts to
1496 obtain the requested services.

1497 (c) The petition for involuntary outpatient services
1498 ~~placement~~ must be filed in the county where the patient is
1499 located, unless the patient is being placed from a state
1500 treatment facility, in which case the petition must be filed in
1501 the county where the patient will reside. When the petition has
1502 been filed, the clerk of the court shall provide copies of the
1503 petition and the proposed treatment plan to the department, the
1504 managing entity, the patient, the patient's guardian or
1505 representative, the state attorney, and the public defender or
1506 the patient's private counsel. A fee may not be charged for
1507 filing a petition under this subsection.

1508 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
1509 after the filing of a petition for involuntary outpatient
1510 services placement, the court shall appoint the public defender
1511 to represent the person who is the subject of the petition,

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1512 unless the person is otherwise represented by counsel. The clerk
1513 of the court shall immediately notify the public defender of the
1514 appointment. The public defender shall represent the person
1515 until the petition is dismissed, the court order expires, or the
1516 patient is discharged from involuntary outpatient services
1517 ~~placement~~. An attorney who represents the patient must be
1518 provided ~~shall have~~ access to the patient, witnesses, and
1519 records relevant to the presentation of the patient's case and
1520 shall represent the interests of the patient, regardless of the
1521 source of payment to the attorney.

1522 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
1523 the concurrence of the patient's counsel, to at least one
1524 continuance of the hearing. The continuance shall be for a
1525 period of up to 4 weeks.

1526 (6) HEARING ON INVOLUNTARY OUTPATIENT SERVICES ~~PLACEMENT~~.—

1527 (a)1. The court shall hold the hearing on involuntary
1528 outpatient services ~~placement~~ within 5 working days after the
1529 filing of the petition, unless a continuance is granted. The
1530 hearing must ~~shall~~ be held in the county where the petition is
1531 filed, must ~~shall~~ be as convenient to the patient as is
1532 consistent with orderly procedure, and must ~~shall~~ be conducted
1533 in physical settings not likely to be injurious to the patient's
1534 condition. If the court finds that the patient's attendance at
1535 the hearing is not consistent with the best interests of the
1536 patient and if the patient's counsel does not object, the court
1537 may waive the presence of the patient from all or any portion of
1538 the hearing. The state attorney for the circuit in which the
1539 patient is located shall represent the state, rather than the
1540 petitioner, as the real party in interest in the proceeding.

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1541 2. The court may appoint a general or special master to
1542 preside at the hearing. One of the professionals who executed
1543 the involuntary outpatient services placement certificate shall
1544 be a witness. The patient and the patient's guardian or
1545 representative shall be informed by the court of the right to an
1546 independent expert examination. If the patient cannot afford
1547 such an examination, the court shall ensure that one is
1548 provided, as otherwise provided by law ~~provide for one~~. The
1549 independent expert's report is ~~shall be~~ confidential and not
1550 discoverable, unless the expert is to be called as a witness for
1551 the patient at the hearing. The court shall allow testimony from
1552 individuals, including family members, deemed by the court to be
1553 relevant under state law, regarding the person's prior history
1554 and how that prior history relates to the person's current
1555 condition. The testimony in the hearing must be given under
1556 oath, and the proceedings must be recorded. The patient may
1557 refuse to testify at the hearing.

1558 (b)1. If the court concludes that the patient meets the
1559 criteria for involuntary outpatient services placement pursuant
1560 to subsection (1), the court shall issue an order for
1561 involuntary outpatient services placement. The court order shall
1562 be for a period of up to 90 days ~~6 months~~. However, an order for
1563 involuntary services in a state treatment facility may be for up
1564 to 6 months. The order must specify the nature and extent of the
1565 patient's mental illness. The order of the court and the
1566 treatment plan must ~~shall~~ be made part of the patient's clinical
1567 record. The service provider shall discharge a patient from
1568 involuntary outpatient services placement when the order expires
1569 or any time the patient no longer meets the criteria for

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1570 involuntary services ~~placement~~. Upon discharge, the service
1571 provider shall send a certificate of discharge to the court.

1572 2. The court may not order the department or the service
1573 provider to provide services if the program or service is not
1574 available in the patient's local community, if there is no space
1575 available in the program or service for the patient, or if
1576 funding is not available for the program or service. The service
1577 provider must document its inquiry with the department and the
1578 managing entity as to the availability of the requested
1579 services. The managing entity must document such efforts to
1580 obtain the requested services. A copy of the order must be sent
1581 to the department and the managing entity ~~Agency for Health Care~~
1582 ~~Administration~~ by the service provider within 1 working day
1583 after it is received from the court. After the ~~placement~~ order
1584 for involuntary services is issued, the service provider and the
1585 patient may modify ~~provisions of~~ the treatment plan. For any
1586 material modification of the treatment plan to which the patient
1587 or, if one is appointed, the patient's guardian advocate agrees,
1588 ~~if appointed, does agree,~~ the service provider shall send notice
1589 of the modification to the court. Any material modifications of
1590 the treatment plan which are contested by the patient or the
1591 patient's guardian advocate, if applicable appointed, must be
1592 approved or disapproved by the court consistent with subsection
1593 (2).

1594 3. If, in the clinical judgment of a physician, the patient
1595 has failed or ~~has~~ refused to comply with the treatment ordered
1596 by the court, and, in the clinical judgment of the physician,
1597 efforts were made to solicit compliance and the patient may meet
1598 the criteria for involuntary examination, a person may be

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1599 brought to a receiving facility pursuant to s. 394.463. If,
1600 after examination, the patient does not meet the criteria for
1601 involuntary inpatient placement pursuant to s. 394.467, the
1602 patient must be discharged from the ~~receiving~~ facility. The
1603 involuntary outpatient services placement order shall remain in
1604 effect unless the service provider determines that the patient
1605 no longer meets the criteria for involuntary outpatient services
1606 ~~placement~~ or until the order expires. The service provider must
1607 determine whether modifications should be made to the existing
1608 treatment plan and must attempt to continue to engage the
1609 patient in treatment. For any material modification of the
1610 treatment plan to which the patient or the patient's guardian
1611 advocate, if applicable appointed, agrees ~~does agree~~, the
1612 service provider shall send notice of the modification to the
1613 court. Any material modifications of the treatment plan which
1614 are contested by the patient or the patient's guardian advocate,
1615 if applicable appointed, must be approved or disapproved by the
1616 court consistent with subsection (2).

1617 (c) If, at any time before the conclusion of the initial
1618 hearing on involuntary outpatient services placement, it appears
1619 to the court that the person does not meet the criteria for
1620 involuntary outpatient services placement under this section
1621 but, instead, meets the criteria for involuntary inpatient
1622 placement, the court may order the person admitted for
1623 involuntary inpatient examination under s. 394.463. If the
1624 person instead meets the criteria for involuntary assessment,
1625 protective custody, or involuntary admission pursuant to s.
1626 397.675, the court may order the person to be admitted for
1627 involuntary assessment for a period of 5 days pursuant to s.

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1628 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by
1629 chapter 397.

1630 (d) At the hearing on involuntary outpatient services
1631 ~~placement~~, the court shall consider testimony and evidence
1632 regarding the patient's competence to consent to treatment. If
1633 the court finds that the patient is incompetent to consent to
1634 treatment, it shall appoint a guardian advocate as provided in
1635 s. 394.4598. The guardian advocate shall be appointed or
1636 discharged in accordance with s. 394.4598.

1637 (e) The administrator of the receiving facility or the
1638 designated department representative shall provide a copy of the
1639 court order and adequate documentation of a patient's mental
1640 illness to the service provider for involuntary outpatient
1641 services ~~placement~~. Such documentation must include any advance
1642 directives made by the patient, a psychiatric evaluation of the
1643 patient, and any evaluations of the patient performed by a
1644 ~~clinical~~ psychologist or a clinical social worker.

1645 (7) PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT SERVICES
1646 PLACEMENT.—

1647 (a)1. If the person continues to meet the criteria for
1648 involuntary outpatient services ~~placement~~, the service provider
1649 shall, at least 10 days before the expiration of the period
1650 during which the treatment is ordered for the person, file in
1651 the county or circuit court a petition for continued involuntary
1652 outpatient services ~~placement~~. The court shall immediately
1653 schedule a hearing on the petition to be held within 15 days
1654 after the petition is filed.

1655 2. The existing involuntary outpatient services ~~placement~~
1656 order remains in effect until disposition on the petition for

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1657 continued involuntary outpatient services ~~placement~~.

1658 3. A certificate shall be attached to the petition which
1659 includes a statement from the person's physician or ~~clinical~~
1660 psychologist justifying the request, a brief description of the
1661 patient's treatment during the time he or she was receiving
1662 involuntarily services ~~placed~~, and an individualized plan of
1663 continued treatment.

1664 4. The service provider shall develop the individualized
1665 plan of continued treatment in consultation with the patient or
1666 the patient's guardian advocate, if applicable ~~appointed~~. When
1667 the petition has been filed, the clerk of the court shall
1668 provide copies of the certificate and the individualized plan of
1669 continued treatment to the department, the patient, the
1670 patient's guardian advocate, the state attorney, and the
1671 patient's private counsel or the public defender.

1672 (b) Within 1 court working day after the filing of a
1673 petition for continued involuntary outpatient services
1674 ~~placement~~, the court shall appoint the public defender to
1675 represent the person who is the subject of the petition, unless
1676 the person is otherwise represented by counsel. The clerk of the
1677 court shall immediately notify the public defender of such
1678 appointment. The public defender shall represent the person
1679 until the petition is dismissed or the court order expires or
1680 the patient is discharged from involuntary outpatient services
1681 ~~placement~~. Any attorney representing the patient shall have
1682 access to the patient, witnesses, and records relevant to the
1683 presentation of the patient's case and shall represent the
1684 interests of the patient, regardless of the source of payment to
1685 the attorney.

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1686 (c) Hearings on petitions for continued involuntary
1687 outpatient services must ~~placement shall~~ be before the circuit
1688 court. The court may appoint a general or special master to
1689 preside at the hearing. The procedures for obtaining an order
1690 pursuant to this paragraph must meet the requirements of ~~shall~~
1691 ~~be in accordance with~~ subsection (6), except that the time
1692 period included in paragraph (1)(e) does not apply when is not
1693 ~~applicable in~~ determining the appropriateness of additional
1694 periods of involuntary outpatient services ~~placement~~.

1695 (d) Notice of the hearing must ~~shall~~ be provided as set
1696 forth in s. 394.4599. The patient and the patient's attorney may
1697 agree to a period of continued outpatient services ~~placement~~
1698 without a court hearing.

1699 (e) The same procedure must ~~shall~~ be repeated before the
1700 expiration of each additional period the patient is placed in
1701 treatment.

1702 (f) If the patient has previously been found incompetent to
1703 consent to treatment, the court shall consider testimony and
1704 evidence regarding the patient's competence. Section 394.4598
1705 governs the discharge of the guardian advocate if the patient's
1706 competency to consent to treatment has been restored.

1707 Section 12. Section 394.467, Florida Statutes, is amended
1708 to read:

1709 394.467 Involuntary inpatient placement.—

1710 (1) CRITERIA.—A person may be ordered for ~~placed in~~
1711 involuntary inpatient placement for treatment upon a finding of
1712 the court by clear and convincing evidence that:

1713 (a) He or she has a mental illness ~~is mentally ill~~ and
1714 because of his or her mental illness:

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1715 1.a. He or she has refused voluntary inpatient placement
 1716 for treatment after sufficient and conscientious explanation and
 1717 disclosure of the purpose of inpatient placement for treatment;
 1718 or

1719 b. He or she is unable to determine for himself or herself
 1720 whether inpatient placement is necessary; and

1721 2.a. He or she is ~~manifestly~~ incapable of surviving alone
 1722 or with the help of willing and responsible family or friends,
 1723 including available alternative services, and, without
 1724 treatment, is likely to suffer from neglect or refuse to care
 1725 for himself or herself, and such neglect or refusal poses a real
 1726 and present threat of substantial physical or mental harm to his
 1727 or her well-being; or

1728 b. There is substantial likelihood that in the near future
 1729 he or she will inflict serious bodily harm on self or others
 1730 ~~himself or herself or another person~~, as evidenced by recent
 1731 behavior causing, attempting, or threatening such harm; and

1732 (b) All available, less restrictive treatment alternatives
 1733 that ~~which~~ would offer an opportunity for improvement of his or
 1734 her condition have been judged to be inappropriate.

1735 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
 1736 retained by a ~~receiving~~ facility or involuntarily placed in a
 1737 treatment facility upon the recommendation of the administrator
 1738 of the ~~receiving~~ facility where the patient has been examined
 1739 and after adherence to the notice and hearing procedures
 1740 provided in s. 394.4599. The recommendation must be supported by
 1741 the opinion of a psychiatrist and the second opinion of a
 1742 psychiatric nurse, clinical ~~clinical~~ psychologist, or another
 1743 psychiatrist, both of whom have personally examined the patient

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1744 within the preceding 72 hours, that the criteria for involuntary
1745 inpatient placement are met. However, in a county that has a
1746 population of fewer than 50,000, if the administrator certifies
1747 that a psychiatrist, psychiatric nurse, or ~~clinical~~ psychologist
1748 is not available to provide the second opinion, the second
1749 opinion may be provided by a ~~licensed~~ physician who has
1750 postgraduate training and experience in diagnosis and treatment
1751 of mental illness and ~~nervous disorders~~ or by a psychiatric
1752 nurse. Any second opinion authorized in this subsection may be
1753 conducted through a face-to-face examination, in person or by
1754 electronic means, including telemedicine. Such recommendation
1755 shall be entered on a petition for ~~an~~ involuntary inpatient
1756 placement certificate that authorizes the ~~receiving~~ facility to
1757 retain the patient pending transfer to a treatment facility or
1758 completion of a hearing.

1759 (3) PETITION FOR INVOLUNTARY INPATIENT PLACEMENT.—

1760 (a) The administrator of the facility shall file a petition
1761 for involuntary inpatient placement in the court in the county
1762 where the patient is located. Upon filing, the clerk of the
1763 court shall provide copies to the department, the patient, the
1764 patient's guardian or representative, and the state attorney and
1765 public defender of the judicial circuit in which the patient is
1766 located. A No fee may not ~~shall~~ be charged for the filing of a
1767 petition under this subsection.

1768 (b) A facility filing a petition under this subsection for
1769 involuntary inpatient placement shall send a copy of the
1770 petition to the department and the managing entity in its area.

1771 (4) APPOINTMENT OF COUNSEL.—Within 1 court working day
1772 after the filing of a petition for involuntary inpatient

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1773 placement, the court shall appoint the public defender to
1774 represent the person who is the subject of the petition, unless
1775 the person is otherwise represented by counsel. The clerk of the
1776 court shall immediately notify the public defender of such
1777 appointment. Any attorney representing the patient shall have
1778 access to the patient, witnesses, and records relevant to the
1779 presentation of the patient's case and shall represent the
1780 interests of the patient, regardless of the source of payment to
1781 the attorney.

1782 (5) CONTINUANCE OF HEARING.—The patient is entitled, with
1783 the concurrence of the patient's counsel, to at least one
1784 continuance of the hearing. ~~The continuance shall be for a~~
1785 ~~period of~~ up to 4 weeks.

1786 (6) HEARING ON INVOLUNTARY INPATIENT PLACEMENT.—

1787 (a)1. The court shall hold the hearing on involuntary
1788 inpatient placement within 5 court working days, unless a
1789 continuance is granted.

1790 2. Except for good cause documented in the court file, the
1791 hearing must ~~shall~~ be held in the county or the facility, as
1792 appropriate, where the patient is located, must ~~and shall~~ be as
1793 convenient to the patient as is ~~may be~~ consistent with orderly
1794 procedure, and shall be conducted in physical settings not
1795 likely to be injurious to the patient's condition. If the court
1796 finds that the patient's attendance at the hearing is not
1797 consistent with the best interests of the patient, and the
1798 patient's counsel does not object, the court may waive the
1799 presence of the patient from all or any portion of the hearing.
1800 The state attorney for the circuit in which the patient is
1801 located shall represent the state, rather than the petitioning

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1802 facility administrator, as the real party in interest in the
1803 proceeding.

1804 ~~3.2.~~ The court may appoint a general or special magistrate
1805 to preside at the hearing. One of the two professionals who
1806 executed the petition for involuntary inpatient placement
1807 certificate shall be a witness. The patient and the patient's
1808 guardian or representative shall be informed by the court of the
1809 right to an independent expert examination. If the patient
1810 cannot afford such an examination, the court shall ensure that
1811 one is provided, as otherwise provided for by law ~~provide for~~
1812 ~~one~~. The independent expert's report is ~~shall be~~ confidential
1813 and not discoverable, unless the expert is to be called as a
1814 witness for the patient at the hearing. The testimony in the
1815 hearing must be given under oath, and the proceedings must be
1816 recorded. The patient may refuse to testify at the hearing.

1817 (b) If the court concludes that the patient meets the
1818 criteria for involuntary inpatient placement, it may ~~shall~~ order
1819 that the patient be transferred to a treatment facility or, if
1820 the patient is at a treatment facility, that the patient be
1821 retained there or be treated at any other appropriate ~~receiving~~
1822 ~~or treatment~~ facility, or that the patient receive services from
1823 such a receiving or treatment facility or service provider, on
1824 an involuntary basis, for a period of up to 90 days ~~6 months~~.
1825 However, any order for involuntary mental health services in a
1826 state treatment facility may be for up to 6 months. The order
1827 shall specify the nature and extent of the patient's mental
1828 illness. The facility shall discharge a patient any time the
1829 patient no longer meets the criteria for involuntary inpatient
1830 placement, unless the patient has transferred to voluntary

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1831 status.

1832 (c) If at any time before ~~prior to~~ the conclusion of the
1833 hearing on involuntary inpatient placement it appears to the
1834 court that the person does not meet the criteria for involuntary
1835 inpatient placement under this section, but instead meets the
1836 criteria for involuntary outpatient services ~~placement~~, the
1837 court may order the person evaluated for involuntary outpatient
1838 services ~~placement~~ pursuant to s. 394.4655. The petition and
1839 hearing procedures set forth in s. 394.4655 shall apply. If the
1840 person instead meets the criteria for involuntary assessment,
1841 protective custody, or involuntary admission pursuant to s.
1842 397.675, then the court may order the person to be admitted for
1843 involuntary assessment for a period of 5 days pursuant to s.
1844 397.6811. Thereafter, all proceedings are ~~shall be~~ governed by
1845 chapter 397.

1846 (d) At the hearing on involuntary inpatient placement, the
1847 court shall consider testimony and evidence regarding the
1848 patient's competence to consent to treatment. If the court finds
1849 that the patient is incompetent to consent to treatment, it
1850 shall appoint a guardian advocate as provided in s. 394.4598.

1851 (e) The administrator of the petitioning ~~receiving~~ facility
1852 shall provide a copy of the court order and adequate
1853 documentation of a patient's mental illness to the administrator
1854 of a treatment facility if the ~~whenever~~ a patient is ordered for
1855 involuntary inpatient placement, whether by civil or criminal
1856 court. The documentation must ~~shall~~ include any advance
1857 directives made by the patient, a psychiatric evaluation of the
1858 patient, and any evaluations of the patient performed by a
1859 ~~clinical~~ psychologist, a marriage and family therapist, a mental

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1860 health counselor, or a clinical social worker. The administrator
1861 of a treatment facility may refuse admission to any patient
1862 directed to its facilities on an involuntary basis, whether by
1863 civil or criminal court order, who is not accompanied ~~at the~~
1864 ~~same time~~ by adequate orders and documentation.

1865 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
1866 PLACEMENT.—

1867 (a) Hearings on petitions for continued involuntary
1868 inpatient placement of an individual placed at any state
1869 treatment facility are ~~shall be~~ administrative hearings and must
1870 ~~shall~~ be conducted in accordance with ~~the provisions of~~ s.
1871 120.57(1), except that any order entered by the administrative
1872 law judge is ~~shall be~~ final and subject to judicial review in
1873 accordance with s. 120.68. Orders concerning patients committed
1874 after successfully pleading not guilty by reason of insanity are
1875 ~~shall be~~ governed by ~~the provisions of~~ s. 916.15.

1876 (b) If the patient continues to meet the criteria for
1877 involuntary inpatient placement and is being treated at a state
1878 treatment facility, the administrator shall, before ~~prior to~~ the
1879 expiration of the period ~~during which~~ the state treatment
1880 facility is authorized to retain the patient, file a petition
1881 requesting authorization for continued involuntary inpatient
1882 placement. The request must ~~shall~~ be accompanied by a statement
1883 from the patient's physician, psychiatrist, psychiatric nurse,
1884 or ~~clinical~~ psychologist justifying the request, a brief
1885 description of the patient's treatment during the time he or she
1886 was involuntarily placed, and an individualized plan of
1887 continued treatment. Notice of the hearing must ~~shall~~ be
1888 provided as provided ~~set forth~~ in s. 394.4599. If a patient's

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1889 attendance at the hearing is voluntarily waived, the
1890 administrative law judge must determine that the waiver is
1891 knowing and voluntary before waiving the presence of the patient
1892 from all or a portion of the hearing. Alternatively, if at the
1893 hearing the administrative law judge finds that attendance at
1894 the hearing is not consistent with the best interests of the
1895 patient, the administrative law judge may waive the presence of
1896 the patient from all or any portion of the hearing, unless the
1897 patient, through counsel, objects to the waiver of presence. The
1898 testimony in the hearing must be under oath, and the proceedings
1899 must be recorded.

1900 (c) Unless the patient is otherwise represented or is
1901 ineligible, he or she shall be represented at the hearing on the
1902 petition for continued involuntary inpatient placement by the
1903 public defender of the circuit in which the facility is located.

1904 (d) If at a hearing it is shown that the patient continues
1905 to meet the criteria for involuntary inpatient placement, the
1906 administrative law judge shall sign the order for continued
1907 involuntary inpatient placement for a period of up to 90 days
1908 ~~not to exceed 6 months. However, any order for involuntary~~
1909 mental health services in a state treatment facility may be for
1910 up to 6 months ~~The same procedure shall be repeated prior to the~~
1911 ~~expiration of each additional period the patient is retained.~~

1912 (e) If continued involuntary inpatient placement is
1913 necessary for a patient admitted while serving a criminal
1914 sentence, but his or her ~~whose~~ sentence is about to expire, or
1915 for a minor patient ~~involuntarily placed, while a minor~~ but who
1916 is about to reach the age of 18, the administrator shall
1917 petition the administrative law judge for an order authorizing

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1918 continued involuntary inpatient placement.

1919 (f) If the patient has been previously found incompetent to
1920 consent to treatment, the administrative law judge shall
1921 consider testimony and evidence regarding the patient's
1922 competence. If the administrative law judge finds evidence that
1923 the patient is now competent to consent to treatment, the
1924 administrative law judge may issue a recommended order to the
1925 court that found the patient incompetent to consent to treatment
1926 that the patient's competence be restored and that any guardian
1927 advocate previously appointed be discharged.

1928 (g) If the patient has been ordered to undergo involuntary
1929 inpatient placement and has previously been found incompetent to
1930 consent to treatment, the court shall consider testimony and
1931 evidence regarding the patient's incompetence. If the patient's
1932 competency to consent to treatment is restored, the discharge of
1933 the guardian advocate shall be governed by the provisions of s.
1934 394.4598.

1935
1936 The procedure required in this subsection must be followed
1937 before the expiration of each additional period the patient is
1938 involuntarily receiving services.

1939 (8) RETURN TO FACILITY OF PATIENTS.—If a patient
1940 involuntarily held ~~When a patient~~ at a ~~treatment~~ facility under
1941 this part leaves the facility without the administrator's
1942 authorization, the administrator may authorize a search for the
1943 patient and his or her ~~the return of the patient~~ to the
1944 facility. The administrator may request the assistance of a law
1945 enforcement agency in this regard ~~the search for and return of~~
1946 ~~the patient.~~

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1947 Section 13. Section 394.46715, Florida Statutes, is amended
1948 to read:

1949 394.46715 Rulemaking authority.—The department may adopt
1950 rules to administer this part ~~Department of Children and~~
1951 ~~Families shall have rulemaking authority to implement the~~
1952 ~~provisions of ss. 394.455, 394.4598, 394.4615, 394.463,~~
1953 ~~394.4655, and 394.467 as amended or created by this act. These~~
1954 ~~rules shall be for the purpose of protecting the health, safety,~~
1955 ~~and well-being of persons examined, treated, or placed under~~
1956 ~~this act.~~

1957 Section 14. Section 394.761, Florida Statutes, is created
1958 to read:

1959 394.761 Revenue maximization.—The agency and the department
1960 shall develop a plan to obtain federal approval for increasing
1961 the availability of federal Medicaid funding for behavioral
1962 health care. Increased funding shall be used to advance the goal
1963 of improved integration of behavioral health and primary care
1964 services through development and effective implementation of
1965 coordinated care as described in s. 394.9082. The agency and the
1966 department shall submit the written plan to the President of the
1967 Senate and the Speaker of the House of Representatives by
1968 November 1, 2016. The plan shall identify the amount of general
1969 revenue funding appropriated for mental health and substance
1970 abuse services which is eligible to be used as state Medicaid
1971 match. The plan must evaluate alternative uses of increased
1972 Medicaid funding, including expansion of Medicaid eligibility
1973 for the severely and persistently mentally ill; increased
1974 reimbursement rates for behavioral health services; adjustments
1975 to the capitation rate for Medicaid enrollees with chronic

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1976 mental illness and substance abuse disorders; supplemental
1977 payments to mental health and substance abuse providers through
1978 a designated state health program or other mechanism; and
1979 innovative programs for incentivizing improved outcomes for
1980 behavioral health conditions. The plan must identify the
1981 advantages and disadvantages of each alternative and assess the
1982 potential of each for achieving improved integration of
1983 services. The plan must identify the federal approvals necessary
1984 to implement each alternative and project a timeline for
1985 implementation.

1986 Section 15. Subsection (11) is added to section 394.875,
1987 Florida Statutes, to read:

1988 394.875 Crisis stabilization units, residential treatment
1989 facilities, and residential treatment centers for children and
1990 adolescents; authorized services; license required.-

1991 (11) By January 1, 2017, the department shall modify
1992 licensure rules and procedures to create an option for a single,
1993 consolidated license for a provider who offers multiple types of
1994 mental health and substance abuse services regulated under this
1995 chapter and chapter 397. Providers eligible for a consolidated
1996 license shall operate these services through a single corporate
1997 entity and a unified management structure. Any provider serving
1998 adults and children must meet department standards for separate
1999 facilities and other requirements necessary to ensure children's
2000 safety and promote therapeutic efficacy.

2001 Section 16. Section 394.9082, Florida Statutes, is amended
2002 to read:

2003 (Substantial rewording of section. See
2004 s. 394.9082, F.S., for present text.)

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2005 394.9082 Behavioral health managing entities' purpose;
2006 definitions; duties; contracting; accountability.-

2007 (1) PURPOSE.-The purpose of the behavioral health managing
2008 entities is to plan for and coordinate the delivery of community
2009 mental health and substance abuse services, to improve access to
2010 care, to promote service continuity, and to support efficient
2011 and effective delivery of services.

2012 (2) DEFINITIONS.-As used in this section, the term:

2013 (a) "Behavioral health services" means mental health
2014 services and substance abuse prevention and treatment services
2015 as described in this chapter and chapter 397.

2016 (b) "Case management" means those direct services provided
2017 to a client in order to assess needs, plan or arrange services,
2018 coordinate service providers, monitor service delivery, and
2019 evaluate outcomes.

2020 (c) "Coordinated system of care" means the full array of
2021 behavioral health and related services in a region or a
2022 community offered by all service providers, whether
2023 participating under contract with the managing entity or through
2024 another method of community partnership or mutual agreement.

2025 (d) "Geographic area" means one or more contiguous
2026 counties, circuits, or regions as described in s. 409.966 or s.
2027 381.0406.

2028 (e) "High-need or high-utilization individual" means a
2029 recipient who meets one or more of the following criteria and
2030 may be eligible for intensive case management services:

2031 1. Has resided in a state mental health facility for at
2032 least 6 months in the last 36 months;

2033 2. Has had two or more admissions to a state mental health

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2034 facility in the last 36 months; or

2035 3. Has had three or more admissions to a crisis
2036 stabilization unit, an addictions receiving facility, a short-
2037 term residential facility, or an inpatient psychiatric unit
2038 within the last 12 months.

2039 (f) "Managing entity" means a corporation designated or
2040 filed as a nonprofit organization under s. 501(c) (3) of the
2041 Internal Revenue Code which is selected by, and is under
2042 contract with, the department to manage the daily operational
2043 delivery of behavioral health services through a coordinated
2044 system of care.

2045 (g) "Provider network" means the group of direct service
2046 providers, facilities, and organizations under contract with a
2047 managing entity to provide a comprehensive array of emergency,
2048 acute care, residential, outpatient, recovery support, and
2049 consumer support services.

2050 (h) "Receiving facility" means any public or private
2051 facility designated by the department to receive and hold or to
2052 refer, as appropriate, involuntary patients under emergency
2053 conditions for mental health or substance abuse evaluation and
2054 to provide treatment or transportation to the appropriate
2055 service provider. County jails may not be used or designated as
2056 a receiving facility, a triage center, or an access center.

2057 (3) DEPARTMENT DUTIES.—The department shall:

2058 (a) Designate, with input from the managing entity,
2059 facilities that meet the definitions in s. 394.455(1), (2),
2060 (12), and (41) and the receiving system developed by one or more
2061 counties pursuant to s. 394.4573(2) (b).

2062 (b) Contract with organizations to serve as the managing

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2063 entity in accordance with the requirements of this section.

2064 (c) Specify the geographic area served.

2065 (d) Specify data reporting and use of shared data systems.

2066 (e) Develop strategies to divert persons with mental
2067 illness or substance abuse disorders from the criminal and
2068 juvenile justice systems.

2069 (f) Support the development and implementation of a
2070 coordinated system of care by requiring each provider that
2071 receives state funds for behavioral health services through a
2072 direct contract with the department to work with the managing
2073 entity in the provider's service area to coordinate the
2074 provision of behavioral health services, as part of the contract
2075 with the department.

2076 (g) Set performance measures and performance standards for
2077 managing entities based on nationally recognized standards, such
2078 as those developed by the National Quality Forum, the National
2079 Committee for Quality Assurance, or similar credible sources.
2080 Performance standards must include all of the following:

2081 1. Annual improvement in the extent to which the need for
2082 behavioral health services is met by the coordinated system of
2083 care in the geographic area served.

2084 2. Annual improvement in the percentage of patients who
2085 receive services through the coordinated system of care and who
2086 achieve improved functional status as indicated by health
2087 condition, employment status, and housing stability.

2088 3. Annual reduction in the rates of readmissions to acute
2089 care facilities, jails, prisons, and forensic facilities.

2090 4. Annual improvement in consumer and family satisfaction.

2091 (h) Provide technical assistance to the managing entities.

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2092 (i) Promote the integration of behavioral health care and
2093 primary care.

2094 (j) Facilitate the coordination between the managing entity
2095 and other payors of behavioral health care.

2096 (k) Develop and provide a unique identifier for clients
2097 receiving services under the managing entity to coordinate care.

2098 (l) Coordinate procedures for the referral and admission of
2099 patients to, and the discharge of patients from, state treatment
2100 facilities and their return to the community.

2101 (m) Ensure that managing entities comply with state and
2102 federal laws, rules, and regulations.

2103 (n) Develop rules for the operations of, and the
2104 requirements that must be met by, the managing entity, if
2105 necessary.

2106 (4) CONTRACT WITH MANAGING ENTITIES.-

2107 (a) The department's contracts with managing entities must
2108 support efficient and effective administration of the behavioral
2109 health system and ensure accountability for performance.

2110 (b) Beginning July 1, 2018, managing entities under
2111 contract with the department are subject to a contract
2112 performance review. The review must include:

2113 1. Analysis of the duties and performance measures
2114 described in this section;

2115 2. The results of contract monitoring compiled during the
2116 term of the contract; and

2117 3. Related compliance and performance issues.

2118 (c) For the managing entities whose performance is
2119 determined satisfactory after completion of the review pursuant
2120 to paragraph (b), and before the end of the term of the

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2121 contract, the department may negotiate and enter into a contract
2122 with the managing entity for a period of 4 years pursuant to s.
2123 287.057(3)(e).

2124 (d) The performance review must be completed by the
2125 beginning of the third year of the 4-year contract. In the event
2126 the managing entity does not meet the requirements of the
2127 performance review, a corrective action plan must be created by
2128 the department. The managing entity must complete the corrective
2129 action plan before the beginning of the fourth year of the
2130 contract. If the corrective action plan is not satisfactorily
2131 completed, the department shall provide notice to the managing
2132 entity that the contract will be terminated at the end of the
2133 contract term and the department shall initiate a competitive
2134 procurement process to select a new managing entity pursuant to
2135 s. 287.057.

2136 (5) MANAGING ENTITIES DUTIES.—A managing entity shall:

2137 (a) Maintain a board of directors that is representative of
2138 the community and that, at a minimum, includes consumers and
2139 family members, community stakeholders and organizations, and
2140 providers of mental health and substance abuse services,
2141 including public and private receiving facilities.

2142 (b) Conduct a community behavioral health care needs
2143 assessment in the geographic area served by the managing entity.
2144 The needs assessment must be updated annually and provided to
2145 the department. The assessment must include, at a minimum, the
2146 information the department needs for its annual report to the
2147 Governor and Legislature pursuant to s. 394.4573.

2148 (c) Develop local resources by pursuing third-party
2149 payments for services, applying for grants, securing local

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2150 matching funds and in-kind services, and any other methods
2151 needed to ensure services are available and accessible.

2152 (d) Provide assistance to counties to develop a designated
2153 receiving system pursuant to s. 394.4573(2)(b) and a
2154 transportation plan pursuant to s. 394.462.

2155 (e) Promote the development and effective implementation of
2156 a coordinated system of care pursuant to s. 394.4573.

2157 (f) Develop a comprehensive network of qualified providers
2158 to deliver behavioral health services. The managing entity is
2159 not required to competitively procure network providers, but
2160 must have a process in place to publicize opportunities to join
2161 the network and to evaluate providers in the network to
2162 determine if they can remain in the network. These processes
2163 must be published on the website of the managing entity. The
2164 managing entity must ensure continuity of care for clients if a
2165 provider ceases to provide a service or leaves the network.

2166 (g) Enter into cooperative agreements with local homeless
2167 councils and organizations to allow the sharing of available
2168 resource information, shared client information, client referral
2169 services, and any other data or information that may be useful
2170 in addressing the homelessness of persons suffering from a
2171 behavioral health crisis.

2172 (h) Monitor network providers' performance and their
2173 compliance with contract requirements and federal and state
2174 laws, rules, and regulations.

2175 (i) Provide or contract for case management services.

2176 (j) Manage and allocate funds for services to meet the
2177 requirements of law or rule.

2178 (k) Promote integration of behavioral health with primary

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2179 care.

2180 (l) Implement shared data systems necessary for the
2181 delivery of coordinated care and integrated services, the
2182 assessment of managing entity performance and provider
2183 performance, and the reporting of outcomes and costs of
2184 services.

2185 (m) Operate in a transparent manner, providing public
2186 access to information, notice of meetings, and opportunities for
2187 public participation in managing entity decisionmaking.

2188 (n) Establish and maintain effective relationships with
2189 community stakeholders, including local governments and other
2190 organizations that serve individuals with behavioral health
2191 needs.

2192 (o) Collaborate with local criminal and juvenile justice
2193 systems to divert persons with mental illness or substance abuse
2194 disorders, or both, from the criminal and juvenile justice
2195 systems.

2196 (p) Collaborate with the local court system to develop
2197 procedures to maximize the use of involuntary outpatient
2198 services; reduce involuntary inpatient treatment; and increase
2199 diversion from the criminal and juvenile justice systems.

2200 (6) FUNDING FOR MANAGING ENTITIES.—

2201 (a) A contract established between the department and a
2202 managing entity under this section must be funded by general
2203 revenue, other applicable state funds, or applicable federal
2204 funding sources. A managing entity may carry forward documented
2205 unexpended state funds from one fiscal year to the next, but the
2206 cumulative amount carried forward may not exceed 8 percent of
2207 the total value of the contract. Any unexpended state funds in

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2208 excess of that percentage must be returned to the department.
2209 The funds carried forward may not be used in a way that would
2210 increase future recurring obligations or for any program or
2211 service that was not authorized as of July 1, 2016, under the
2212 existing contract with the department. Expenditures of funds
2213 carried forward must be separately reported to the department.
2214 Any unexpended funds that remain at the end of the contract
2215 period must be returned to the department. Funds carried forward
2216 may be retained through contract renewals and new contract
2217 procurements as long as the same managing entity is retained by
2218 the department.

2219 (b) The method of payment for a fixed-price contract with a
2220 managing entity must provide for a 2-month advance payment at
2221 the beginning of each fiscal year and equal monthly payments
2222 thereafter.

2223 (7) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—The
2224 department shall develop, implement, and maintain standards
2225 under which a managing entity shall collect utilization data
2226 from all public receiving facilities situated within its
2227 geographic service area. As used in this subsection, the term
2228 “public receiving facility” means an entity that meets the
2229 licensure requirements of, and is designated by, the department
2230 to operate as a public receiving facility under s. 394.875 and
2231 that is operating as a licensed crisis stabilization unit.

2232 (a) The department shall develop standards and protocols
2233 for managing entities and public receiving facilities to be used
2234 for data collection, storage, transmittal, and analysis. The
2235 standards and protocols must allow for compatibility of data and
2236 data transmittal between public receiving facilities, managing

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2237 entities, and the department for the implementation and
2238 requirements of this subsection.

2239 (b) A managing entity shall require a public receiving
2240 facility within its provider network to submit data, in real
2241 time or at least daily, to the managing entity for:

2242 1. All admissions and discharges of clients receiving
2243 public receiving facility services who qualify as indigent, as
2244 defined in s. 394.4787; and

2245 2. The current active census of total licensed beds, the
2246 number of beds purchased by the department, the number of
2247 clients qualifying as indigent who occupy those beds, and the
2248 total number of unoccupied licensed beds regardless of funding.

2249 (c) A managing entity shall require a public receiving
2250 facility within its provider network to submit data, on a
2251 monthly basis, to the managing entity which aggregates the daily
2252 data submitted under paragraph (b). The managing entity shall
2253 reconcile the data in the monthly submission to the data
2254 received by the managing entity under paragraph (b) to check for
2255 consistency. If the monthly aggregate data submitted by a public
2256 receiving facility under this paragraph are inconsistent with
2257 the daily data submitted under paragraph (b), the managing
2258 entity shall consult with the public receiving facility to make
2259 corrections necessary to ensure accurate data.

2260 (d) A managing entity shall require a public receiving
2261 facility within its provider network to submit data, on an
2262 annual basis, to the managing entity which aggregates the data
2263 submitted and reconciled under paragraph (c). The managing
2264 entity shall reconcile the data in the annual submission to the
2265 data received and reconciled by the managing entity under

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2266 paragraph (c) to check for consistency. If the annual aggregate
2267 data submitted by a public receiving facility under this
2268 paragraph are inconsistent with the data received and reconciled
2269 under paragraph (c), the managing entity shall consult with the
2270 public receiving facility to make corrections necessary to
2271 ensure accurate data.

2272 (e) After ensuring the accuracy of data pursuant to
2273 paragraphs (c) and (d), the managing entity shall submit the
2274 data to the department on a monthly and an annual basis. The
2275 department shall create a statewide database for the data
2276 described under paragraph (b) and submitted under this paragraph
2277 for the purpose of analyzing the payments for and the use of
2278 crisis stabilization services funded by the Baker Act on a
2279 statewide basis and on an individual public receiving facility
2280 basis.

2281 Section 17. Present subsections (20) through (45) of
2282 section 397.311, Florida Statutes, are redesignated as
2283 subsections (21) through (46), respectively, a new subsection
2284 (20) is added to that section, and present subsections (30) and
2285 (38) of that section are amended, to read:

2286 397.311 Definitions.—As used in this chapter, except part
2287 VIII, the term:

2288 (20) "Involuntary services" means court-ordered outpatient
2289 services or treatment for substance abuse disorders or services
2290 provided in an inpatient placement in a receiving facility or
2291 treatment facility.

2292 (31)~~(30)~~ "Qualified professional" means a physician or a
2293 physician assistant licensed under chapter 458 or chapter 459; a
2294 professional licensed under chapter 490 or chapter 491; an

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2295 advanced registered nurse practitioner ~~having a specialty in~~
 2296 ~~psychiatry~~ licensed under part I of chapter 464; or a person who
 2297 is certified through a department-recognized certification
 2298 process for substance abuse treatment services and who holds, at
 2299 a minimum, a bachelor's degree. A person who is certified in
 2300 substance abuse treatment services by a state-recognized
 2301 certification process in another state at the time of employment
 2302 with a licensed substance abuse provider in this state may
 2303 perform the functions of a qualified professional as defined in
 2304 this chapter but must meet certification requirements contained
 2305 in this subsection no later than 1 year after his or her date of
 2306 employment.

2307 ~~(39)~~ ~~(38)~~ "Service component" or "component" means a
 2308 discrete operational entity within a service provider which is
 2309 subject to licensing as defined by rule. Service components
 2310 include prevention, intervention, and clinical treatment
 2311 described in subsection (23) ~~(22)~~.

2312 Section 18. Section 397.675, Florida Statutes, is amended
 2313 to read:

2314 397.675 Criteria for involuntary admissions, including
 2315 protective custody, emergency admission, and other involuntary
 2316 assessment, involuntary treatment, and alternative involuntary
 2317 assessment for minors, for purposes of assessment and
 2318 stabilization, and for involuntary treatment.—A person meets the
 2319 criteria for involuntary admission if there is good faith reason
 2320 to believe that the person has a substance abuse or co-occurring
 2321 mental health disorder ~~is substance abuse impaired~~ and, because
 2322 of such disorder ~~impairment~~:

2323 (1) Has lost the power of self-control with respect to

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2324 substance abuse use; and ~~either~~

2325 (2) (a) Without care or treatment, is likely to suffer from
2326 neglect or to refuse to care for himself or herself, that such
2327 neglect or refusal poses a real and present threat of
2328 substantial harm to his or her well-being and that it is not
2329 apparent that such harm may be avoided through the help of
2330 willing family members or friends or the provision of other
2331 services, or there is substantial likelihood that the person has
2332 inflicted, or threatened to or attempted to inflict, or, unless
2333 admitted, is likely to inflict, physical harm on himself, ~~or~~
2334 herself, or another; or

2335 (b) Is in need of substance abuse services and, by reason
2336 of substance abuse impairment, his or her judgment has been so
2337 impaired that he or she ~~the person~~ is incapable of appreciating
2338 his or her need for such services and of making a rational
2339 decision in that regard, although ~~thereto; however,~~ mere refusal
2340 to receive such services does not constitute evidence of lack of
2341 judgment with respect to his or her need for such services.

2342 Section 19. Section 397.679, Florida Statutes, is amended
2343 to read:

2344 397.679 Emergency admission; circumstances justifying.—A
2345 person who meets the criteria for involuntary admission in s.
2346 397.675 may be admitted to a hospital or to a licensed
2347 detoxification facility or addictions receiving facility for
2348 emergency assessment and stabilization, or to a less intensive
2349 component of a licensed service provider for assessment only,
2350 upon receipt by the facility of a ~~the physician's~~ certificate by
2351 a physician, an advanced registered nurse practitioner, a
2352 clinical psychologist, a licensed clinical social worker, a

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2353 licensed marriage and family therapist, a licensed mental health
2354 counselor, a physician assistant working under the scope of
2355 practice of the supervising physician, or a master's-level-
2356 certified addictions professional, if the certificate is
2357 specific to substance abuse disorders, and the completion of an
2358 application for emergency admission.

2359 Section 20. Section 397.6791, Florida Statutes, is amended
2360 to read:

2361 397.6791 Emergency admission; persons who may initiate.—The
2362 following professionals ~~persons~~ may request a certificate for an
2363 emergency assessment or admission:

2364 (1) In the case of an adult, physicians, advanced
2365 registered nurse practitioners, clinical psychologists, licensed
2366 clinical social workers, licensed marriage and family
2367 therapists, licensed mental health counselors, physician
2368 assistants working under the scope of practice of the
2369 supervising physician, and a master's-level-certified addictions
2370 professional, if the certificate is specific to substance abuse
2371 disorders ~~the certifying physician~~, the person's spouse or legal
2372 guardian, any relative of the person, or any other responsible
2373 adult who has personal knowledge of the person's substance abuse
2374 impairment.

2375 (2) In the case of a minor, the minor's parent, legal
2376 guardian, or legal custodian.

2377 Section 21. Section 397.6793, Florida Statutes, is amended
2378 to read:

2379 397.6793 Professional's ~~Physician's~~ certificate for
2380 emergency admission.—

2381 (1) The professional's ~~physician's~~ certificate must include

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2382 the name of the person to be admitted, the relationship between
2383 the person and the professional executing the certificate
2384 ~~physician~~, the relationship between the applicant and the
2385 professional physician, any relationship between the
2386 professional physician and the licensed service provider, ~~and~~ a
2387 statement that the person has been examined and assessed within
2388 the preceding 5 days of the application date, and ~~must include~~
2389 factual allegations with respect to the need for emergency
2390 admission, including:

2391 (a) The reason for the ~~physician's~~ belief that the person
2392 is substance abuse impaired; and

2393 (b) The reason for the ~~physician's~~ belief that because of
2394 such impairment the person has lost the power of self-control
2395 with respect to substance abuse; and ~~either~~

2396 (c)1. The reason for the belief ~~physician believes that,~~
2397 without care or treatment, the person is likely to suffer from
2398 neglect or refuse to care for himself or herself; that such
2399 neglect or refusal poses a real and present threat of
2400 substantial harm to his or her well-being; and that it is not
2401 apparent that such harm may be avoided through the help of
2402 willing family members or friends or the provision of other
2403 services or there is substantial likelihood that the person has
2404 inflicted or is likely to inflict physical harm on himself or
2405 herself or others unless admitted; or

2406 2. The reason for the belief ~~physician believes that the~~
2407 person's refusal to voluntarily receive care is based on
2408 judgment so impaired by reason of substance abuse that the
2409 person is incapable of appreciating his or her need for care and
2410 of making a rational decision regarding his or her need for

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2411 care.

2412 (2) The professional's ~~physician's~~ certificate must
2413 recommend the least restrictive type of service that is
2414 appropriate for the person. The certificate must be signed by
2415 the professional ~~physician~~. If other less restrictive means are
2416 not available, such as voluntary appearance for outpatient
2417 evaluation, a law enforcement officer shall take the person
2418 named in the certificate into custody and deliver him or her to
2419 the appropriate facility for involuntary examination.

2420 (3) A signed copy of the professional's ~~physician's~~
2421 certificate shall accompany the person, and shall be made a part
2422 of the person's clinical record, together with a signed copy of
2423 the application. The application and the professional's
2424 ~~physician's~~ certificate authorize the involuntary admission of
2425 the person pursuant to, and subject to the provisions of, ss.
2426 397.679-397.6797.

2427 (4) The professional's certificate is valid for 7 days
2428 after issuance.

2429 (5) The professional's ~~physician's~~ certificate must
2430 indicate whether the person requires transportation assistance
2431 for delivery for emergency admission and specify, pursuant to s.
2432 397.6795, the type of transportation assistance necessary.

2433 Section 22. Section 397.6795, Florida Statutes, is amended
2434 to read:

2435 397.6795 Transportation-assisted delivery of persons for
2436 emergency assessment.—An applicant for a person's emergency
2437 admission, ~~or~~ the person's spouse or guardian, or a law
2438 enforcement officer, ~~or a health officer~~ may deliver a person
2439 named in the professional's ~~physician's~~ certificate for

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2440 emergency admission to a hospital or a licensed detoxification
2441 facility or addictions receiving facility for emergency
2442 assessment and stabilization.

2443 Section 23. Subsection (1) of section 397.681, Florida
2444 Statutes, is amended to read:

2445 397.681 Involuntary petitions; general provisions; court
2446 jurisdiction and right to counsel.—

2447 (1) JURISDICTION.—The courts have jurisdiction of
2448 involuntary assessment and stabilization petitions and
2449 involuntary treatment petitions for substance abuse impaired
2450 persons, and such petitions must be filed with the clerk of the
2451 court in the county where the person is located. The court may
2452 not charge a fee for the filing of a petition under this
2453 section. The chief judge may appoint a general or special
2454 magistrate to preside over all or part of the proceedings. The
2455 alleged impaired person is named as the respondent.

2456 Section 24. Subsection (1) of section 397.6811, Florida
2457 Statutes, is amended to read:

2458 397.6811 Involuntary assessment and stabilization.—A person
2459 determined by the court to appear to meet the criteria for
2460 involuntary admission under s. 397.675 may be admitted for a
2461 period of 5 days to a hospital or to a licensed detoxification
2462 facility or addictions receiving facility, for involuntary
2463 assessment and stabilization or to a less restrictive component
2464 of a licensed service provider for assessment only upon entry of
2465 a court order or upon receipt by the licensed service provider
2466 of a petition. Involuntary assessment and stabilization may be
2467 initiated by the submission of a petition to the court.

2468 (1) If the person upon whose behalf the petition is being

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2469 filed is an adult, a petition for involuntary assessment and
2470 stabilization may be filed by the respondent's spouse ~~or~~ , legal
2471 guardian, any relative, a private practitioner, the director of
2472 a licensed service provider or the director's designee, or any
2473 individual ~~three adults~~ who has direct ~~have~~ personal knowledge
2474 of the respondent's substance abuse impairment.

2475 Section 25. Section 397.6814, Florida Statutes, is amended
2476 to read:

2477 397.6814 Involuntary assessment and stabilization; contents
2478 of petition.—A petition for involuntary assessment and
2479 stabilization must contain the name of the respondent, + the name
2480 of the applicant or applicants, + the relationship between the
2481 respondent and the applicant, and ~~+~~ the name of the respondent's
2482 attorney, if known, ~~and a statement of the respondent's ability~~
2483 ~~to afford an attorney~~; and must state facts to support the need
2484 for involuntary assessment and stabilization, including:

2485 (1) The reason for the petitioner's belief that the
2486 respondent is substance abuse impaired; ~~and~~

2487 (2) The reason for the petitioner's belief that because of
2488 such impairment the respondent has lost the power of self-
2489 control with respect to substance abuse; and ~~either~~

2490 (3) (a) The reason the petitioner believes that the
2491 respondent has inflicted or is likely to inflict physical harm
2492 on himself or herself or others unless admitted; or

2493 (b) The reason the petitioner believes that the
2494 respondent's refusal to voluntarily receive care is based on
2495 judgment so impaired by reason of substance abuse that the
2496 respondent is incapable of appreciating his or her need for care
2497 and of making a rational decision regarding that need for care.

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2498 If the respondent has refused to submit to an assessment, such
2499 refusal must be alleged in the petition.

2500

2501 A fee may not be charged for the filing of a petition pursuant
2502 to this section.

2503 Section 26. Section 397.6819, Florida Statutes, is amended
2504 to read:

2505 397.6819 Involuntary assessment and stabilization;
2506 responsibility of licensed service provider.—A licensed service
2507 provider may admit an individual for involuntary assessment and
2508 stabilization for a period not to exceed 5 days unless a
2509 petition for involuntary outpatient services has been initiated
2510 which authorizes the licensed service provider to retain
2511 physical custody of the person pending further order of the
2512 court pursuant to s. 397.6822. The individual must be assessed
2513 within 24 hours ~~without unnecessary delay~~ by a qualified
2514 professional. The person may not be held pursuant to this
2515 section beyond the 24-hour assessment period unless the
2516 assessment has been reviewed and authorized by a licensed
2517 physician as necessary for continued stabilization. If an
2518 assessment is performed by a qualified professional who is not a
2519 physician, the assessment must be reviewed by a physician before
2520 the end of the assessment period.

2521 Section 27. Section 397.695, Florida Statutes, is amended
2522 to read:

2523 397.695 Involuntary outpatient services ~~treatment~~; persons
2524 who may petition.—

2525 (1) (a) If the respondent is an adult, a petition for
2526 involuntary outpatient services ~~treatment~~ may be filed by the

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2527 respondent's spouse or legal guardian, any relative, a service
2528 provider, or any individual ~~three adults~~ who has direct ~~have~~
2529 personal knowledge of the respondent's substance abuse
2530 impairment and his or her prior course of assessment and
2531 treatment.

2532 (b) The administrator of a receiving facility, a crisis
2533 stabilization unit, or an addictions receiving facility where
2534 the patient has been examined may retain the patient at the
2535 facility after adherence to the notice procedures provided in s.
2536 397.6955. The recommendation for involuntary outpatient services
2537 must be supported by the opinion of a qualified professional as
2538 defined in s. 397.311(31) or a master's-level-certified
2539 addictions professional and by the second opinion of a
2540 psychologist, a physician, or an advanced registered nurse
2541 practitioner licensed under chapter 464, both of whom have
2542 personally examined the patient within the preceding 72 hours,
2543 that the criteria for involuntary outpatient services are met.
2544 However, in a county having a population of fewer than 50,000,
2545 if the administrator of the facility certifies that a qualified
2546 professional is not available to provide the second opinion, the
2547 second opinion may be provided by a physician who has
2548 postgraduate training and experience in the diagnosis and
2549 treatment of substance abuse disorders. Any second opinion
2550 authorized in this section may be conducted through face-to-face
2551 examination, in person, or by electronic means, including
2552 telemedicine. Such recommendation must be entered on an
2553 involuntary outpatient certificate that authorizes the facility
2554 to retain the patient pending completion of a hearing. The
2555 certificate must be made a part of the patient's clinical

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2556 record.

2557 (c) If the patient has been stabilized and no longer meets
2558 the criteria for involuntary assessment and stabilization
2559 pursuant to s. 397.6811, the patient must be released from the
2560 facility while awaiting the hearing for involuntary outpatient
2561 services. Before filing a petition for involuntary outpatient
2562 services, the administrator of the facility must identify the
2563 service provider that will have responsibility for service
2564 provision under the order for involuntary outpatient services,
2565 unless the person is otherwise participating in outpatient
2566 substance abuse disorder services and is not in need of public
2567 financing of the services, in which case the person, if
2568 eligible, may be ordered to involuntary outpatient services
2569 pursuant to the existing provision-of-services relationship he
2570 or she has for substance abuse disorder services.

2571 (d) The service provider shall prepare a written proposed
2572 treatment plan in consultation with the patient or the patient's
2573 guardian advocate, if applicable, for the order for outpatient
2574 services and provide a copy of the proposed treatment plan to
2575 the patient and the administrator of the facility. The treatment
2576 plan must specify the nature and extent of the patient's
2577 substance abuse disorder, address the reduction of symptoms that
2578 necessitate involuntary outpatient services, and include
2579 measurable goals and objectives for the services and treatment
2580 that are provided to treat the person's substance abuse disorder
2581 and to assist the person in living and functioning in the
2582 community or prevent relapse or further deterioration. Service
2583 providers may coordinate, select, and supervise other
2584 individuals to implement specific aspects of the treatment plan.

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2585 The services in the treatment plan must be deemed clinically
2586 appropriate by a qualified professional who consults with, or is
2587 employed by, the service provider. The service provider must
2588 certify that the recommended services in the treatment plan are
2589 available for the stabilization and improvement of the patient.
2590 If the service provider certifies that the recommended services
2591 in the proposed treatment plan are not available, the petition
2592 may not be filed. The service provider must document its inquiry
2593 with the department and the managing entity as to the
2594 availability of the requested services. The managing entity must
2595 document such efforts to obtain the requested services.

2596 (e) If a patient in involuntary inpatient placement meets
2597 the criteria for involuntary outpatient services, the
2598 administrator of the treatment facility may, before the
2599 expiration of the period during which the treatment facility is
2600 authorized to retain the patient, recommend involuntary
2601 outpatient services. The recommendation must be supported by the
2602 opinion of a qualified professional as defined in s. 397.311(31)
2603 or a master's-level-certified addictions professional and by the
2604 second opinion of a psychologist, a physician, an advanced
2605 registered nurse practitioner licensed under chapter 464, or a
2606 mental health professional licensed under chapter 491, both of
2607 whom have personally examined the patient within the preceding
2608 72 hours, that the criteria for involuntary outpatient services
2609 are met. However, in a county having a population of fewer than
2610 50,000, if the administrator of the facility certifies that a
2611 qualified professional is not available to provide the second
2612 opinion, the second opinion may be provided by a physician who
2613 has postgraduate training and experience in the diagnosis and

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2614 treatment of substance abuse disorders. Any second opinion
2615 authorized in this section may be conducted through face-to-face
2616 examination, in person, or by electronic means, including
2617 telemedicine. Such recommendation must be entered on an
2618 involuntary outpatient certificate that authorizes the facility
2619 to retain the patient pending completion of a hearing. The
2620 certificate must be made a part of the patient's clinical
2621 record.

2622 (f) The service provider who is responsible for providing
2623 services under the order for involuntary outpatient services
2624 must be identified before the entry of the order for outpatient
2625 services. The service provider shall certify to the court that
2626 the recommended services in the treatment plan are available for
2627 the stabilization and improvement of the patient. If the service
2628 provider certifies that the recommended services in the proposed
2629 treatment plan are not available, the petition may not be filed.
2630 The service provider must document its inquiry with the
2631 department and the managing entity as to the availability of the
2632 requested services. The managing entity must document such
2633 efforts to obtain the requested services.

2634 (2) If the respondent is a minor, a petition for
2635 involuntary treatment may be filed by a parent, legal guardian,
2636 or service provider.

2637 Section 28. Section 397.6951, Florida Statutes, is amended
2638 to read:

2639 397.6951 Contents of petition for involuntary outpatient
2640 services treatment.—A petition for involuntary outpatient
2641 services treatment must contain the name of the respondent ~~to be~~
2642 ~~admitted~~; the name of the petitioner or petitioners; the

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2643 relationship between the respondent and the petitioner; the name
2644 of the respondent's attorney, if known, ~~and a statement of the~~
2645 ~~petitioner's knowledge of the respondent's ability to afford an~~
2646 ~~attorney~~; the findings and recommendations of the assessment
2647 performed by the qualified professional; and the factual
2648 allegations presented by the petitioner establishing the need
2649 for involuntary outpatient services. The factual allegations
2650 must demonstrate treatment, including:

2651 (1) The reason for the petitioner's belief that the
2652 respondent is substance abuse impaired; ~~and~~

2653 (2) The respondent's history of failure to comply with
2654 requirements for treatment for substance abuse and that the
2655 respondent has been involuntarily admitted to a receiving or
2656 treatment facility at least twice within the immediately
2657 preceding 36 months; ~~The reason for the petitioner's belief that~~
2658 ~~because of such impairment the respondent has lost the power of~~
2659 ~~self-control with respect to substance abuse; and either~~

2660 (3) That the respondent is, as a result of his or her
2661 substance abuse disorder, unlikely to voluntarily participate in
2662 the recommended services after sufficient and conscientious
2663 explanation and disclosure of the purpose of the services or he
2664 or she is unable to determine for himself or herself whether
2665 outpatient services are necessary;

2666 (4) That, in view of the person's treatment history and
2667 current behavior, the person is in need of involuntary
2668 outpatient services; that without services, the person is likely
2669 to suffer from neglect or to refuse to care for himself or
2670 herself; that such neglect or refusal poses a real and present
2671 threat of substantial harm to his or her well-being; and that

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2672 there is a substantial likelihood that without services the
2673 person will cause serious bodily harm to himself, herself, or
2674 others in the near future, as evidenced by recent behavior; and

2675 (5) That it is likely that the person will benefit from
2676 involuntary outpatient services.

2677 ~~(3) (a) The reason the petitioner believes that the~~
2678 ~~respondent has inflicted or is likely to inflict physical harm~~
2679 ~~on himself or herself or others unless admitted; or~~

2680 ~~(b) The reason the petitioner believes that the~~
2681 ~~respondent's refusal to voluntarily receive care is based on~~
2682 ~~judgment so impaired by reason of substance abuse that the~~
2683 ~~respondent is incapable of appreciating his or her need for care~~
2684 ~~and of making a rational decision regarding that need for care.~~

2685 Section 29. Section 397.6955, Florida Statutes, is amended
2686 to read:

2687 397.6955 Duties of court upon filing of petition for
2688 involuntary outpatient services ~~treatment.~~

2689 (1) Upon the filing of a petition for the involuntary
2690 outpatient services for ~~treatment of~~ a substance abuse impaired
2691 person with the clerk of the court, the court shall immediately
2692 determine whether the respondent is represented by an attorney
2693 or whether the appointment of counsel for the respondent is
2694 appropriate. If the court appoints counsel for the person, the
2695 clerk of the court shall immediately notify the regional
2696 conflict counsel, created pursuant to s. 27.511, of the
2697 appointment. The regional conflict counsel shall represent the
2698 person until the petition is dismissed, the court order expires,
2699 or the person is discharged from involuntary outpatient
2700 services. An attorney that represents the person named in the

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2701 petition shall have access to the person, witnesses, and records
2702 relevant to the presentation of the person's case and shall
2703 represent the interests of the person, regardless of the source
2704 of payment to the attorney.

2705 (2) The court shall schedule a hearing to be held on the
2706 petition within 5 ~~10~~ days unless a continuance is granted. The
2707 court may appoint a general or special master to preside at the
2708 hearing.

2709 (3) A copy of the petition and notice of the hearing must
2710 be provided to the respondent; the respondent's parent,
2711 guardian, or legal custodian, in the case of a minor; the
2712 respondent's attorney, if known; the petitioner; the
2713 respondent's spouse or guardian, if applicable; and such other
2714 persons as the court may direct. If the respondent is a minor, a
2715 copy of the petition and notice of the hearing must be ~~and have~~
2716 ~~such petition and order~~ personally delivered to the respondent
2717 ~~if he or she is a minor.~~ The court shall also issue a summons to
2718 the person whose admission is sought.

2719 Section 30. Section 397.6957, Florida Statutes, is amended
2720 to read:

2721 397.6957 Hearing on petition for involuntary outpatient
2722 services ~~treatment~~.—

2723 (1) At a hearing on a petition for involuntary outpatient
2724 services ~~treatment~~, the court shall hear and review all relevant
2725 evidence, including the review of results of the assessment
2726 completed by the qualified professional in connection with the
2727 respondent's protective custody, emergency admission,
2728 involuntary assessment, or alternative involuntary admission.
2729 The respondent must be present unless the court finds that his

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2730 or her presence is likely to be injurious to himself or herself
2731 or others, in which event the court must appoint a guardian
2732 advocate to act in behalf of the respondent throughout the
2733 proceedings.

2734 (2) The petitioner has the burden of proving by clear and
2735 convincing evidence that:

2736 (a) The respondent is substance abuse impaired and has a
2737 history of lack of compliance with treatment for substance
2738 abuse; ~~and~~

2739 (b) Because of such impairment the respondent is unlikely
2740 to voluntarily participate in the recommended treatment or is
2741 unable to determine for himself or herself whether outpatient
2742 services are necessary ~~the respondent has lost the power of~~
2743 ~~self-control with respect to substance abuse; and either~~

2744 1. Without services, the respondent is likely to suffer
2745 from neglect or to refuse to care for himself or herself; that
2746 such neglect or refusal poses a real and present threat of
2747 substantial harm to his or her well-being; and that there is a
2748 substantial likelihood that without services the respondent will
2749 cause serious bodily harm to himself or herself or others in the
2750 near future, as evidenced by recent behavior ~~The respondent has~~
2751 ~~inflicted or is likely to inflict physical harm on himself or~~
2752 ~~herself or others unless admitted; or~~

2753 2. The respondent's refusal to voluntarily receive care is
2754 based on judgment so impaired by reason of substance abuse that
2755 the respondent is incapable of appreciating his or her need for
2756 care and of making a rational decision regarding that need for
2757 care.

2758 (3) One of the qualified professionals who executed the

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2759 involuntary outpatient services certificate must be a witness.
2760 The court shall allow testimony from individuals, including
2761 family members, deemed by the court to be relevant under state
2762 law, regarding the respondent's prior history and how that prior
2763 history relates to the person's current condition. The testimony
2764 in the hearing must be under oath, and the proceedings must be
2765 recorded. The patient may refuse to testify at the hearing.

2766 (4)~~(3)~~ At the conclusion of the hearing the court shall
2767 ~~either~~ dismiss the petition or order the respondent to receive
2768 ~~undergo~~ involuntary outpatient services from his or her
2769 ~~substance abuse treatment, with the respondent's~~ chosen licensed
2770 service provider if to deliver the involuntary substance abuse
2771 ~~treatment where possible and appropriate.~~

2772 Section 31. Section 397.697, Florida Statutes, is amended
2773 to read:

2774 397.697 Court determination; effect of court order for
2775 involuntary outpatient services ~~substance abuse treatment.~~-

2776 (1) When the court finds that the conditions for
2777 involuntary outpatient services ~~substance abuse treatment~~ have
2778 been proved by clear and convincing evidence, it may order the
2779 respondent to receive ~~undergo~~ involuntary outpatient services
2780 from treatment by a licensed service provider for a period not
2781 to exceed 60 days. If the court finds it necessary, it may
2782 direct the sheriff to take the respondent into custody and
2783 deliver him or her to the licensed service provider specified in
2784 the court order, or to the nearest appropriate licensed service
2785 provider, for involuntary outpatient services ~~treatment~~. When
2786 the conditions justifying involuntary outpatient services
2787 ~~treatment~~ no longer exist, the individual must be released as

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2788 provided in s. 397.6971. When the conditions justifying
2789 involuntary outpatient services ~~treatment~~ are expected to exist
2790 after 60 days of services ~~treatment~~, a renewal of the
2791 involuntary outpatient services ~~treatment~~ order may be requested
2792 pursuant to s. 397.6975 before ~~prior to~~ the end of the 60-day
2793 period.

2794 (2) In all cases resulting in an order for involuntary
2795 outpatient services ~~substance abuse treatment~~, the court shall
2796 retain jurisdiction over the case and the parties for the entry
2797 of such further orders as the circumstances may require. The
2798 court's requirements for notification of proposed release must
2799 be included in the original ~~treatment~~ order.

2800 (3) An involuntary outpatient services ~~treatment~~ order
2801 authorizes the licensed service provider to require the
2802 individual to receive services that ~~undergo such treatment as~~
2803 will benefit him or her, including services ~~treatment~~ at any
2804 licensable service component of a licensed service provider.

2805 (4) The court may not order involuntary outpatient services
2806 if the service provider certifies to the court that the
2807 recommended services are not available. The service provider
2808 must document its inquiry with the department and the managing
2809 entity as to the availability of the requested services. The
2810 managing entity must document such efforts to obtain the
2811 requested services.

2812 (5) If the court orders involuntary outpatient services, a
2813 copy of the order must be sent to the department and the
2814 managing entity within 1 working day after it is received from
2815 the court. After the order for outpatient services is issued,
2816 the service provider and the patient may modify provisions of

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2817 the treatment plan. For any material modification of the
 2818 treatment plan to which the patient or the patient's guardian
 2819 advocate, if appointed, agrees, the service provider shall send
 2820 notice of the modification to the court. Any material
 2821 modification of the treatment plan which is contested by the
 2822 patient or the guardian advocate, if applicable, must be
 2823 approved or disapproved by the court.

2824 Section 32. Section 397.6971, Florida Statutes, is amended
 2825 to read:

2826 397.6971 Early release from involuntary outpatient services
 2827 ~~substance abuse treatment.~~

2828 (1) At any time before ~~prior to~~ the end of the 60-day
 2829 involuntary outpatient services ~~treatment~~ period, or ~~prior to~~
 2830 the end of any extension granted pursuant to s. 397.6975, an
 2831 individual receiving ~~admitted for~~ involuntary outpatient
 2832 services ~~treatment~~ may be determined eligible for discharge to
 2833 the most appropriate referral or disposition for the individual
 2834 when any of the following apply:

2835 (a) The individual no longer meets the criteria for
 2836 involuntary admission and has given his or her informed consent
 2837 to be transferred to voluntary treatment status. ~~†~~

2838 (b) If the individual was admitted on the grounds of
 2839 likelihood of infliction of physical harm upon himself or
 2840 herself or others, such likelihood no longer exists. ~~† or~~

2841 (c) If the individual was admitted on the grounds of need
 2842 for assessment and stabilization or treatment, accompanied by
 2843 inability to make a determination respecting such need, ~~either:~~

- 2844 1. Such inability no longer exists; or
- 2845 2. It is evident that further treatment will not bring

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2846 about further significant improvements in the individual's
2847 condition.~~†~~

2848 (d) The individual is no longer in need of services.~~†~~~~or~~

2849 (e) The director of the service provider determines that
2850 the individual is beyond the safe management capabilities of the
2851 provider.

2852 (2) Whenever a qualified professional determines that an
2853 individual admitted for involuntary outpatient services
2854 qualifies ~~treatment is ready~~ for early release under ~~for any of~~
2855 ~~the reasons listed in~~ subsection (1), the service provider shall
2856 immediately discharge the individual~~†~~ and must notify all
2857 persons specified by the court in the original treatment order.

2858 Section 33. Section 397.6975, Florida Statutes, is amended
2859 to read:

2860 397.6975 Extension of involuntary outpatient services
2861 ~~substance abuse treatment~~ period.-

2862 (1) Whenever a service provider believes that an individual
2863 who is nearing the scheduled date of his or her release from
2864 involuntary outpatient services ~~treatment~~ continues to meet the
2865 criteria for involuntary outpatient services ~~treatment~~ in s.
2866 397.693, a petition for renewal of the involuntary outpatient
2867 services ~~treatment~~ order may be filed with the court at least 10
2868 days before the expiration of the court-ordered outpatient
2869 services ~~treatment~~ period. The court shall immediately schedule
2870 a hearing to be held not more than 15 days after filing of the
2871 petition. The court shall provide the copy of the petition for
2872 renewal and the notice of the hearing to all parties to the
2873 proceeding. The hearing is conducted pursuant to s. 397.6957.

2874 (2) If the court finds that the petition for renewal of the

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2875 involuntary outpatient services ~~treatment~~ order should be
2876 granted, it may order the respondent to receive ~~undergo~~
2877 involuntary outpatient services ~~treatment~~ for a period not to
2878 exceed an additional 90 days. When the conditions justifying
2879 involuntary outpatient services ~~treatment~~ no longer exist, the
2880 individual must be released as provided in s. 397.6971. When the
2881 conditions justifying involuntary outpatient services ~~treatment~~
2882 continue to exist after an additional 90 days of service
2883 ~~additional treatment~~, a new petition requesting renewal of the
2884 involuntary outpatient services ~~treatment~~ order may be filed
2885 pursuant to this section.

2886 (3) Within 1 court working day after the filing of a
2887 petition for continued involuntary outpatient services, the
2888 court shall appoint the regional conflict counsel to represent
2889 the respondent, unless the respondent is otherwise represented
2890 by counsel. The clerk of the court shall immediately notify the
2891 regional conflict counsel of such appointment. The regional
2892 conflict counsel shall represent the respondent until the
2893 petition is dismissed or the court order expires or the
2894 respondent is discharged from involuntary outpatient services.
2895 Any attorney representing the respondent shall have access to
2896 the respondent, witnesses, and records relevant to the
2897 presentation of the respondent's case and shall represent the
2898 interests of the respondent, regardless of the source of payment
2899 to the attorney.

2900 (4) Hearings on petitions for continued involuntary
2901 outpatient services shall be before the circuit court. The court
2902 may appoint a general or special master to preside at the
2903 hearing. The procedures for obtaining an order pursuant to this

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2904 section shall be in accordance with s. 397.697.

2905 (5) Notice of hearing shall be provided to the respondent
 2906 or his or her counsel. The respondent and the respondent's
 2907 counsel may agree to a period of continued outpatient services
 2908 without a court hearing.

2909 (6) The same procedure shall be repeated before the
 2910 expiration of each additional period of outpatient services.

2911 (7) If the respondent has previously been found incompetent
 2912 to consent to treatment, the court shall consider testimony and
 2913 evidence regarding the respondent's competence.

2914 Section 34. Section 397.6977, Florida Statutes, is amended
 2915 to read:

2916 397.6977 Disposition of individual upon completion of
 2917 involuntary outpatient services ~~substance abuse treatment~~.—At
 2918 the conclusion of the 60-day period of court-ordered involuntary
 2919 outpatient services ~~treatment~~, the respondent ~~individual~~ is
 2920 automatically discharged unless a motion for renewal of the
 2921 involuntary outpatient services ~~treatment~~ order has been filed
 2922 with the court pursuant to s. 397.6975.

2923 Section 35. Section 397.6978, Florida Statutes, is created
 2924 to read:

2925 397.6978 Guardian advocate; patient incompetent to consent;
 2926 substance abuse disorder.—

2927 (1) The administrator of a receiving facility or addictions
 2928 receiving facility may petition the court for the appointment of
 2929 a guardian advocate based upon the opinion of a qualified
 2930 professional that the patient is incompetent to consent to
 2931 treatment. If the court finds that a patient is incompetent to
 2932 consent to treatment and has not been adjudicated incapacitated

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2933 and that a guardian with the authority to consent to mental
2934 health treatment has not been appointed, it shall appoint a
2935 guardian advocate. The patient has the right to have an attorney
2936 represent him or her at the hearing. If the person is indigent,
2937 the court shall appoint the office of the regional conflict
2938 counsel to represent him or her at the hearing. The patient has
2939 the right to testify, cross-examine witnesses, and present
2940 witnesses. The proceeding shall be recorded electronically or
2941 stenographically, and testimony must be provided under oath. One
2942 of the qualified professionals authorized to give an opinion in
2943 support of a petition for involuntary placement, as described in
2944 s. 397.675 or s. 397.6981, must testify. A guardian advocate
2945 must meet the qualifications of a guardian contained in part IV
2946 of chapter 744. The person who is appointed as a guardian
2947 advocate must agree to the appointment.

2948 (2) The following persons are prohibited from appointment
2949 as a patient's guardian advocate:

2950 (a) A professional providing clinical services to the
2951 individual under this part.

2952 (b) The qualified professional who initiated the
2953 involuntary examination of the individual, if the examination
2954 was initiated by a qualified professional's certificate.

2955 (c) An employee, an administrator, or a board member of the
2956 facility providing the examination of the individual.

2957 (d) An employee, an administrator, or a board member of the
2958 treatment facility providing treatment of the individual.

2959 (e) A person providing any substantial professional
2960 services to the individual, including clinical and nonclinical
2961 services.

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2962 (f) A creditor of the individual.

2963 (g) A person subject to an injunction for protection
2964 against domestic violence under s. 741.30, whether the order of
2965 injunction is temporary or final, and for which the individual
2966 was the petitioner.

2967 (h) A person subject to an injunction for protection
2968 against repeat violence, sexual violence, or dating violence
2969 under s. 784.046, whether the order of injunction is temporary
2970 or final, and for which the individual was the petitioner.

2971 (3) A facility requesting appointment of a guardian
2972 advocate must, before the appointment, provide the prospective
2973 guardian advocate with information about the duties and
2974 responsibilities of guardian advocates, including information
2975 about the ethics of medical decisionmaking. Before asking a
2976 guardian advocate to give consent to treatment for a patient,
2977 the facility must provide to the guardian advocate sufficient
2978 information so that the guardian advocate can decide whether to
2979 give express and informed consent to the treatment. Such
2980 information must include information that demonstrates that the
2981 treatment is essential to the care of the patient and does not
2982 present an unreasonable risk of serious, hazardous, or
2983 irreversible side effects. If possible, before giving consent to
2984 treatment, the guardian advocate must personally meet and talk
2985 with the patient and the patient's physician. If that is not
2986 possible, the discussion may be conducted by telephone. The
2987 decision of the guardian advocate may be reviewed by the court,
2988 upon petition of the patient's attorney, the patient's family,
2989 or the facility administrator.

2990 (4) In lieu of the training required for guardians

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2991 appointed pursuant to chapter 744, a guardian advocate shall
2992 attend at least a 4-hour training course approved by the court
2993 before exercising his or her authority. At a minimum, the
2994 training course must include information about patient rights,
2995 the diagnosis of substance abuse disorders, the ethics of
2996 medical decisionmaking, and the duties of guardian advocates.

2997 (5) The required training course and the information to be
2998 supplied to prospective guardian advocates before their
2999 appointment must be developed by the department, approved by the
3000 chief judge of the circuit court, and taught by a court-approved
3001 organization, which may include, but need not be limited to, a
3002 community college, a guardianship organization, a local bar
3003 association, or The Florida Bar. The court may waive some or all
3004 of the training requirements for guardian advocates or impose
3005 additional requirements. The court shall make its decision on a
3006 case-by-case basis and, in making its decision, shall consider
3007 the experience and education of the guardian advocate, the
3008 duties assigned to the guardian advocate, and the needs of the
3009 patient.

3010 (6) In selecting a guardian advocate, the court shall give
3011 preference to the patient's health care surrogate, if one has
3012 already been designated by the patient. If the patient has not
3013 previously designated a health care surrogate, the selection
3014 shall be made, except for good cause documented in the court
3015 record, from among the following persons, listed in order of
3016 priority:

- 3017 (a) The patient's spouse.
3018 (b) An adult child of the patient.
3019 (c) A parent of the patient.

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- 3020 (d) The adult next of kin of the patient.
- 3021 (e) An adult friend of the patient.
- 3022 (f) An adult trained and willing to serve as the guardian
3023 advocate for the patient.
- 3024 (7) If a guardian with the authority to consent to medical
3025 treatment has not already been appointed, or if the patient has
3026 not already designated a health care surrogate, the court may
3027 authorize the guardian advocate to consent to medical treatment
3028 as well as substance abuse disorder treatment. Unless otherwise
3029 limited by the court, a guardian advocate with authority to
3030 consent to medical treatment has the same authority to make
3031 health care decisions and is subject to the same restrictions as
3032 a proxy appointed under part IV of chapter 765. Unless the
3033 guardian advocate has sought and received express court approval
3034 in a proceeding separate from the proceeding to determine the
3035 competence of the patient to consent to medical treatment, the
3036 guardian advocate may not consent to:
- 3037 (a) Abortion.
- 3038 (b) Sterilization.
- 3039 (c) Electroshock therapy.
- 3040 (d) Psychosurgery.
- 3041 (e) Experimental treatments that have not been approved by
3042 a federally approved institutional review board in accordance
3043 with 45 C.F.R. part 46 or 21 C.F.R. part 56.
- 3044
- 3045 The court must base its authorization on evidence that the
3046 treatment or procedure is essential to the care of the patient
3047 and that the treatment does not present an unreasonable risk of
3048 serious, hazardous, or irreversible side effects. In complying

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3049 with this subsection, the court shall follow the procedures set
3050 forth in subsection (1).

3051 (8) The guardian advocate shall be discharged when the
3052 patient is discharged from an order for involuntary outpatient
3053 services or involuntary inpatient placement or when the patient
3054 is transferred from involuntary to voluntary status. The court
3055 or a hearing officer shall consider the competence of the
3056 patient as provided in subsection (1) and may consider an
3057 involuntarily placed patient's competence to consent to
3058 treatment at any hearing. Upon sufficient evidence, the court
3059 may restore, or the hearing officer may recommend that the court
3060 restore, the patient's competence. A copy of the order restoring
3061 competence or the certificate of discharge containing the
3062 restoration of competence shall be provided to the patient and
3063 the guardian advocate.

3064 Section 36. Paragraph (a) of subsection (3) of section
3065 39.407, Florida Statutes, is amended to read:

3066 39.407 Medical, psychiatric, and psychological examination
3067 and treatment of child; physical, mental, or substance abuse
3068 examination of person with or requesting child custody.—

3069 (3) (a) 1. Except as otherwise provided in subparagraph (b) 1.
3070 or paragraph (e), before the department provides psychotropic
3071 medications to a child in its custody, the prescribing physician
3072 shall attempt to obtain express and informed consent, as defined
3073 in s. 394.455(15) ~~s. 394.455(9)~~ and as described in s.
3074 394.459(3) (a), from the child's parent or legal guardian. The
3075 department must take steps necessary to facilitate the inclusion
3076 of the parent in the child's consultation with the physician.
3077 However, if the parental rights of the parent have been

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3078 terminated, the parent's location or identity is unknown or
3079 cannot reasonably be ascertained, or the parent declines to give
3080 express and informed consent, the department may, after
3081 consultation with the prescribing physician, seek court
3082 authorization to provide the psychotropic medications to the
3083 child. Unless parental rights have been terminated and if it is
3084 possible to do so, the department shall continue to involve the
3085 parent in the decisionmaking process regarding the provision of
3086 psychotropic medications. If, at any time, a parent whose
3087 parental rights have not been terminated provides express and
3088 informed consent to the provision of a psychotropic medication,
3089 the requirements of this section that the department seek court
3090 authorization do not apply to that medication until such time as
3091 the parent no longer consents.

3092 2. Any time the department seeks a medical evaluation to
3093 determine the need to initiate or continue a psychotropic
3094 medication for a child, the department must provide to the
3095 evaluating physician all pertinent medical information known to
3096 the department concerning that child.

3097 Section 37. Paragraph (e) of subsection (5) of section
3098 212.055, Florida Statutes, is amended to read:

3099 212.055 Discretionary sales surtaxes; legislative intent;
3100 authorization and use of proceeds.—It is the legislative intent
3101 that any authorization for imposition of a discretionary sales
3102 surtax shall be published in the Florida Statutes as a
3103 subsection of this section, irrespective of the duration of the
3104 levy. Each enactment shall specify the types of counties
3105 authorized to levy; the rate or rates which may be imposed; the
3106 maximum length of time the surtax may be imposed, if any; the

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3107 procedure which must be followed to secure voter approval, if
3108 required; the purpose for which the proceeds may be expended;
3109 and such other requirements as the Legislature may provide.
3110 Taxable transactions and administrative procedures shall be as
3111 provided in s. 212.054.

3112 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
3113 s. 125.011(1) may levy the surtax authorized in this subsection
3114 pursuant to an ordinance either approved by extraordinary vote
3115 of the county commission or conditioned to take effect only upon
3116 approval by a majority vote of the electors of the county voting
3117 in a referendum. In a county as defined in s. 125.011(1), for
3118 the purposes of this subsection, “county public general
3119 hospital” means a general hospital as defined in s. 395.002
3120 which is owned, operated, maintained, or governed by the county
3121 or its agency, authority, or public health trust.

3122 (e) A governing board, agency, or authority shall be
3123 chartered by the county commission upon this act becoming law.
3124 The governing board, agency, or authority shall adopt and
3125 implement a health care plan for indigent health care services.
3126 The governing board, agency, or authority shall consist of no
3127 more than seven and no fewer than five members appointed by the
3128 county commission. The members of the governing board, agency,
3129 or authority shall be at least 18 years of age and residents of
3130 the county. No member may be employed by or affiliated with a
3131 health care provider or the public health trust, agency, or
3132 authority responsible for the county public general hospital.
3133 The following community organizations shall each appoint a
3134 representative to a nominating committee: the South Florida
3135 Hospital and Healthcare Association, the Miami-Dade County

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3136 Public Health Trust, the Dade County Medical Association, the
3137 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
3138 County. This committee shall nominate between 10 and 14 county
3139 citizens for the governing board, agency, or authority. The
3140 slate shall be presented to the county commission and the county
3141 commission shall confirm the top five to seven nominees,
3142 depending on the size of the governing board. Until such time as
3143 the governing board, agency, or authority is created, the funds
3144 provided for in subparagraph (d)2. shall be placed in a
3145 restricted account set aside from other county funds and not
3146 disbursed by the county for any other purpose.

3147 1. The plan shall divide the county into a minimum of four
3148 and maximum of six service areas, with no more than one
3149 participant hospital per service area. The county public general
3150 hospital shall be designated as the provider for one of the
3151 service areas. Services shall be provided through participants'
3152 primary acute care facilities.

3153 2. The plan and subsequent amendments to it shall fund a
3154 defined range of health care services for both indigent persons
3155 and the medically poor, including primary care, preventive care,
3156 hospital emergency room care, and hospital care necessary to
3157 stabilize the patient. For the purposes of this section,
3158 "stabilization" means stabilization as defined in s. 397.311(42)
3159 ~~s. 397.311(41)~~. Where consistent with these objectives, the plan
3160 may include services rendered by physicians, clinics, community
3161 hospitals, and alternative delivery sites, as well as at least
3162 one regional referral hospital per service area. The plan shall
3163 provide that agreements negotiated between the governing board,
3164 agency, or authority and providers shall recognize hospitals

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3165 that render a disproportionate share of indigent care, provide
3166 other incentives to promote the delivery of charity care to draw
3167 down federal funds where appropriate, and require cost
3168 containment, including, but not limited to, case management.
3169 From the funds specified in subparagraphs (d)1. and 2. for
3170 indigent health care services, service providers shall receive
3171 reimbursement at a Medicaid rate to be determined by the
3172 governing board, agency, or authority created pursuant to this
3173 paragraph for the initial emergency room visit, and a per-member
3174 per-month fee or capitation for those members enrolled in their
3175 service area, as compensation for the services rendered
3176 following the initial emergency visit. Except for provisions of
3177 emergency services, upon determination of eligibility,
3178 enrollment shall be deemed to have occurred at the time services
3179 were rendered. The provisions for specific reimbursement of
3180 emergency services shall be repealed on July 1, 2001, unless
3181 otherwise reenacted by the Legislature. The capitation amount or
3182 rate shall be determined before ~~prior to~~ program implementation
3183 by an independent actuarial consultant. In no event shall such
3184 reimbursement rates exceed the Medicaid rate. The plan must also
3185 provide that any hospitals owned and operated by government
3186 entities on or after the effective date of this act must, as a
3187 condition of receiving funds under this subsection, afford
3188 public access equal to that provided under s. 286.011 as to any
3189 meeting of the governing board, agency, or authority the subject
3190 of which is budgeting resources for the retention of charity
3191 care, as that term is defined in the rules of the Agency for
3192 Health Care Administration. The plan shall also include
3193 innovative health care programs that provide cost-effective

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3194 alternatives to traditional methods of service and delivery
3195 funding.

3196 3. The plan's benefits shall be made available to all
3197 county residents currently eligible to receive health care
3198 services as indigents or medically poor as defined in paragraph
3199 (4) (d).

3200 4. Eligible residents who participate in the health care
3201 plan shall receive coverage for a period of 12 months or the
3202 period extending from the time of enrollment to the end of the
3203 current fiscal year, per enrollment period, whichever is less.

3204 5. At the end of each fiscal year, the governing board,
3205 agency, or authority shall prepare an audit that reviews the
3206 budget of the plan, delivery of services, and quality of
3207 services, and makes recommendations to increase the plan's
3208 efficiency. The audit shall take into account participant
3209 hospital satisfaction with the plan and assess the amount of
3210 poststabilization patient transfers requested, and accepted or
3211 denied, by the county public general hospital.

3212 Section 38. Paragraph (c) of subsection (2) of section
3213 394.4599, Florida Statutes, is amended to read:

3214 394.4599 Notice.—

3215 (2) INVOLUNTARY ADMISSION.—

3216 (c)1. A receiving facility shall give notice of the
3217 whereabouts of a minor who is being involuntarily held for
3218 examination pursuant to s. 394.463 to the minor's parent,
3219 guardian, caregiver, or guardian advocate, in person or by
3220 telephone or other form of electronic communication, immediately
3221 after the minor's arrival at the facility. The facility may
3222 delay notification for no more than 24 hours after the minor's

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3223 arrival if the facility has submitted a report to the central
3224 abuse hotline, pursuant to s. 39.201, based upon knowledge or
3225 suspicion of abuse, abandonment, or neglect and if the facility
3226 deems a delay in notification to be in the minor's best
3227 interest.

3228 2. The receiving facility shall attempt to notify the
3229 minor's parent, guardian, caregiver, or guardian advocate until
3230 the receiving facility receives confirmation from the parent,
3231 guardian, caregiver, or guardian advocate, verbally, by
3232 telephone or other form of electronic communication, or by
3233 recorded message, that notification has been received. Attempts
3234 to notify the parent, guardian, caregiver, or guardian advocate
3235 must be repeated at least once every hour during the first 12
3236 hours after the minor's arrival and once every 24 hours
3237 thereafter and must continue until such confirmation is
3238 received, unless the minor is released at the end of the 72-hour
3239 examination period, or until a petition for involuntary services
3240 ~~placement~~ is filed with the court pursuant to s. 394.463(2)(g)
3241 ~~s. 394.463(2)(i)~~. The receiving facility may seek assistance
3242 from a law enforcement agency to notify the minor's parent,
3243 guardian, caregiver, or guardian advocate if the facility has
3244 not received within the first 24 hours after the minor's arrival
3245 a confirmation by the parent, guardian, caregiver, or guardian
3246 advocate that notification has been received. The receiving
3247 facility must document notification attempts in the minor's
3248 clinical record.

3249 Section 39. Subsection (3) of section 394.495, Florida
3250 Statutes, is amended to read:

3251 394.495 Child and adolescent mental health system of care;

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3252 programs and services.—

3253 (3) Assessments must be performed by:

3254 (a) A professional as defined in s. 394.455(7), (33), (36),
3255 (37), or (38) ~~s. 394.455(2), (4), (21), (23), or (24)~~;

3256 (b) A professional licensed under chapter 491; or

3257 (c) A person who is under the direct supervision of a
3258 professional as defined in s. 394.455(7), (33), (36), (37), or
3259 (38) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a professional
3260 licensed under chapter 491.

3261 Section 40. Subsection (5) of section 394.496, Florida
3262 Statutes, is amended to read:

3263 394.496 Service planning.—

3264 (5) A professional as defined in s. 394.455(7), (33), (36),
3265 (37), or (38) ~~s. 394.455(2), (4), (21), (23), or (24)~~ or a
3266 professional licensed under chapter 491 must be included among
3267 those persons developing the services plan.

3268 Section 41. Subsection (6) of section 394.9085, Florida
3269 Statutes, is amended to read:

3270 394.9085 Behavioral provider liability.—

3271 (6) For purposes of this section, the terms "detoxification
3272 services," "addictions receiving facility," and "receiving
3273 facility" have the same meanings as those provided in ss.
3274 397.311(23)(a)4., 397.311(23)(a)1., and 394.455(41) ~~ss.~~
3275 ~~397.311(22)(a)4., 397.311(22)(a)1., and 394.455(26),~~
3276 respectively.

3277 Section 42. Subsection (8) of section 397.405, Florida
3278 Statutes, is amended to read:

3279 397.405 Exemptions from licensure.—The following are exempt
3280 from the licensing provisions of this chapter:

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3281 (8) A legally cognizable church or nonprofit religious
3282 organization or denomination providing substance abuse services,
3283 including prevention services, which are solely religious,
3284 spiritual, or ecclesiastical in nature. A church or nonprofit
3285 religious organization or denomination providing any of the
3286 licensed service components itemized under s. 397.311(23) ~~s.~~
3287 ~~397.311(22)~~ is not exempt from substance abuse licensure but
3288 retains its exemption with respect to all services which are
3289 solely religious, spiritual, or ecclesiastical in nature.

3290
3291 The exemptions from licensure in this section do not apply to
3292 any service provider that receives an appropriation, grant, or
3293 contract from the state to operate as a service provider as
3294 defined in this chapter or to any substance abuse program
3295 regulated pursuant to s. 397.406. Furthermore, this chapter may
3296 not be construed to limit the practice of a physician or
3297 physician assistant licensed under chapter 458 or chapter 459, a
3298 psychologist licensed under chapter 490, a psychotherapist
3299 licensed under chapter 491, or an advanced registered nurse
3300 practitioner licensed under part I of chapter 464, who provides
3301 substance abuse treatment, so long as the physician, physician
3302 assistant, psychologist, psychotherapist, or advanced registered
3303 nurse practitioner does not represent to the public that he or
3304 she is a licensed service provider and does not provide services
3305 to individuals pursuant to part V of this chapter. Failure to
3306 comply with any requirement necessary to maintain an exempt
3307 status under this section is a misdemeanor of the first degree,
3308 punishable as provided in s. 775.082 or s. 775.083.

3309 Section 43. Subsections (1) and (5) of section 397.407,

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3310 Florida Statutes, are amended to read:

3311 397.407 Licensure process; fees.—

3312 (1) The department shall establish the licensure process to
3313 include fees and categories of licenses and must prescribe a fee
3314 range that is based, at least in part, on the number and
3315 complexity of programs listed in s. 397.311(23) ~~s. 397.311(22)~~
3316 which are operated by a licensee. The fees from the licensure of
3317 service components are sufficient to cover at least 50 percent
3318 of the costs of regulating the service components. The
3319 department shall specify a fee range for public and privately
3320 funded licensed service providers. Fees for privately funded
3321 licensed service providers must exceed the fees for publicly
3322 funded licensed service providers.

3323 (5) The department may issue probationary, regular, and
3324 interim licenses. The department shall issue one license for
3325 each service component that is operated by a service provider
3326 and defined pursuant to s. 397.311(23) ~~s. 397.311(22)~~. The
3327 license is valid only for the specific service components listed
3328 for each specific location identified on the license. The
3329 licensed service provider shall apply for a new license at least
3330 60 days before the addition of any service components or 30 days
3331 before the relocation of any of its service sites. Provision of
3332 service components or delivery of services at a location not
3333 identified on the license may be considered an unlicensed
3334 operation that authorizes the department to seek an injunction
3335 against operation as provided in s. 397.401, in addition to
3336 other sanctions authorized by s. 397.415. Probationary and
3337 regular licenses may be issued only after all required
3338 information has been submitted. A license may not be

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3339 transferred. As used in this subsection, the term "transfer"
3340 includes, but is not limited to, the transfer of a majority of
3341 the ownership interest in the licensed entity or transfer of
3342 responsibilities under the license to another entity by
3343 contractual arrangement.

3344 Section 44. Section 397.416, Florida Statutes, is amended
3345 to read:

3346 397.416 Substance abuse treatment services; qualified
3347 professional.—Notwithstanding any other provision of law, a
3348 person who was certified through a certification process
3349 recognized by the former Department of Health and Rehabilitative
3350 Services before January 1, 1995, may perform the duties of a
3351 qualified professional with respect to substance abuse treatment
3352 services as defined in this chapter, and need not meet the
3353 certification requirements contained in s. 397.311(31) ~~s.~~
3354 ~~397.311(30)~~.

3355 Section 45. Paragraph (b) of subsection (1) of section
3356 409.972, Florida Statutes, is amended to read:

3357 409.972 Mandatory and voluntary enrollment.—

3358 (1) The following Medicaid-eligible persons are exempt from
3359 mandatory managed care enrollment required by s. 409.965, and
3360 may voluntarily choose to participate in the managed medical
3361 assistance program:

3362 (b) Medicaid recipients residing in residential commitment
3363 facilities operated through the Department of Juvenile Justice
3364 or a mental health treatment facility ~~facilities~~ as defined in
3365 by s. 394.455(50) ~~s. 394.455(32)~~.

3366 Section 46. Paragraphs (d) and (g) of subsection (1) of
3367 section 440.102, Florida Statutes, are amended to read:

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3368 440.102 Drug-free workplace program requirements.—The
 3369 following provisions apply to a drug-free workplace program
 3370 implemented pursuant to law or to rules adopted by the Agency
 3371 for Health Care Administration:

3372 (1) DEFINITIONS.—Except where the context otherwise
 3373 requires, as used in this act:

3374 (d) "Drug rehabilitation program" means a service provider,
 3375 established pursuant to s. 397.311(40) ~~s. 397.311(39)~~, that
 3376 provides confidential, timely, and expert identification,
 3377 assessment, and resolution of employee drug abuse.

3378 (g) "Employee assistance program" means an established
 3379 program capable of providing expert assessment of employee
 3380 personal concerns; confidential and timely identification
 3381 services with regard to employee drug abuse; referrals of
 3382 employees for appropriate diagnosis, treatment, and assistance;
 3383 and followup services for employees who participate in the
 3384 program or require monitoring after returning to work. If, in
 3385 addition to the above activities, an employee assistance program
 3386 provides diagnostic and treatment services, these services shall
 3387 in all cases be provided by service providers pursuant to s.
 3388 397.311(40) ~~s. 397.311(39)~~.

3389 Section 47. Subsection (7) of section 744.704, Florida
 3390 Statutes, is amended to read:

3391 744.704 Powers and duties.—

3392 (7) A public guardian may ~~shall~~ not commit a ward to a
 3393 ~~mental health~~ treatment facility, as defined in s. 394.455(50)
 3394 ~~s. 394.455(32)~~, without an involuntary placement proceeding as
 3395 provided by law.

3396 Section 48. Paragraph (a) of subsection (2) of section

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3397 790.065, Florida Statutes, is amended to read:

3398 790.065 Sale and delivery of firearms.-

3399 (2) Upon receipt of a request for a criminal history record
3400 check, the Department of Law Enforcement shall, during the
3401 licensee's call or by return call, forthwith:

3402 (a) Review any records available to determine if the
3403 potential buyer or transferee:

3404 1. Has been convicted of a felony and is prohibited from
3405 receipt or possession of a firearm pursuant to s. 790.23;

3406 2. Has been convicted of a misdemeanor crime of domestic
3407 violence, and therefore is prohibited from purchasing a firearm;

3408 3. Has had adjudication of guilt withheld or imposition of
3409 sentence suspended on any felony or misdemeanor crime of
3410 domestic violence unless 3 years have elapsed since probation or
3411 any other conditions set by the court have been fulfilled or
3412 expunction has occurred; or

3413 4. Has been adjudicated mentally defective or has been
3414 committed to a mental institution by a court or as provided in
3415 sub-sub-subparagraph b.(II), and as a result is prohibited by
3416 state or federal law from purchasing a firearm.

3417 a. As used in this subparagraph, "adjudicated mentally
3418 defective" means a determination by a court that a person, as a
3419 result of marked subnormal intelligence, or mental illness,
3420 incompetency, condition, or disease, is a danger to himself or
3421 herself or to others or lacks the mental capacity to contract or
3422 manage his or her own affairs. The phrase includes a judicial
3423 finding of incapacity under s. 744.331(6)(a), an acquittal by
3424 reason of insanity of a person charged with a criminal offense,
3425 and a judicial finding that a criminal defendant is not

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3426 competent to stand trial.

3427 b. As used in this subparagraph, "committed to a mental
3428 institution" means:

3429 (I) Involuntary commitment, commitment for mental
3430 defectiveness or mental illness, and commitment for substance
3431 abuse. The phrase includes involuntary inpatient placement as
3432 defined in s. 394.467, involuntary outpatient services ~~placement~~
3433 as defined in s. 394.4655, involuntary assessment and
3434 stabilization under s. 397.6818, and involuntary substance abuse
3435 treatment under s. 397.6957, but does not include a person in a
3436 mental institution for observation or discharged from a mental
3437 institution based upon the initial review by the physician or a
3438 voluntary admission to a mental institution; or

3439 (II) Notwithstanding sub-sub-subparagraph (I), voluntary
3440 admission to a mental institution for outpatient or inpatient
3441 treatment of a person who had an involuntary examination under
3442 s. 394.463, where each of the following conditions have been
3443 met:

3444 (A) An examining physician found that the person is an
3445 imminent danger to himself or herself or others.

3446 (B) The examining physician certified that if the person
3447 did not agree to voluntary treatment, a petition for involuntary
3448 outpatient or inpatient services ~~treatment~~ would have been filed
3449 under s. 394.463(2)(g) ~~s. 394.463(2)(i)4.~~, or the examining
3450 physician certified that a petition was filed and the person
3451 subsequently agreed to voluntary treatment before ~~prior to~~ a
3452 court hearing on the petition.

3453 (C) Before agreeing to voluntary treatment, the person
3454 received written notice of that finding and certification, and

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3455 written notice that as a result of such finding, he or she may
3456 be prohibited from purchasing a firearm, and may not be eligible
3457 to apply for or retain a concealed weapon or firearms license
3458 under s. 790.06 and the person acknowledged such notice in
3459 writing, in substantially the following form:

3460

3461 "I understand that the doctor who examined me believes
3462 I am a danger to myself or to others. I understand
3463 that if I do not agree to voluntary treatment, a
3464 petition will be filed in court to require me to
3465 receive involuntary treatment. I understand that if
3466 that petition is filed, I have the right to contest
3467 it. In the event a petition has been filed, I
3468 understand that I can subsequently agree to voluntary
3469 treatment prior to a court hearing. I understand that
3470 by agreeing to voluntary treatment in either of these
3471 situations, I may be prohibited from buying firearms
3472 and from applying for or retaining a concealed weapons
3473 or firearms license until I apply for and receive
3474 relief from that restriction under Florida law."

3475

3476 (D) A judge or a magistrate has, pursuant to sub-sub-
3477 subparagraph c.(II), reviewed the record of the finding,
3478 certification, notice, and written acknowledgment classifying
3479 the person as an imminent danger to himself or herself or
3480 others, and ordered that such record be submitted to the
3481 department.

3482 c. In order to check for these conditions, the department
3483 shall compile and maintain an automated database of persons who

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3484 are prohibited from purchasing a firearm based on court records
3485 of adjudications of mental defectiveness or commitments to
3486 mental institutions.

3487 (I) Except as provided in sub-sub-subparagraph (II), clerks
3488 of court shall submit these records to the department within 1
3489 month after the rendition of the adjudication or commitment.
3490 Reports shall be submitted in an automated format. The reports
3491 must, at a minimum, include the name, along with any known alias
3492 or former name, the sex, and the date of birth of the subject.

3493 (II) For persons committed to a mental institution pursuant
3494 to sub-sub-subparagraph b.(II), within 24 hours after the
3495 person's agreement to voluntary admission, a record of the
3496 finding, certification, notice, and written acknowledgment must
3497 be filed by the administrator of the receiving or treatment
3498 facility, as defined in s. 394.455, with the clerk of the court
3499 for the county in which the involuntary examination under s.
3500 394.463 occurred. No fee shall be charged for the filing under
3501 this sub-sub-subparagraph. The clerk must present the records to
3502 a judge or magistrate within 24 hours after receipt of the
3503 records. A judge or magistrate is required and has the lawful
3504 authority to review the records ex parte and, if the judge or
3505 magistrate determines that the record supports the classifying
3506 of the person as an imminent danger to himself or herself or
3507 others, to order that the record be submitted to the department.
3508 If a judge or magistrate orders the submittal of the record to
3509 the department, the record must be submitted to the department
3510 within 24 hours.

3511 d. A person who has been adjudicated mentally defective or
3512 committed to a mental institution, as those terms are defined in

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3513 this paragraph, may petition the circuit court that made the
3514 adjudication or commitment, or the court that ordered that the
3515 record be submitted to the department pursuant to sub-sub-
3516 subparagraph c.(II), for relief from the firearm disabilities
3517 imposed by such adjudication or commitment. A copy of the
3518 petition shall be served on the state attorney for the county in
3519 which the person was adjudicated or committed. The state
3520 attorney may object to and present evidence relevant to the
3521 relief sought by the petition. The hearing on the petition may
3522 be open or closed as the petitioner may choose. The petitioner
3523 may present evidence and subpoena witnesses to appear at the
3524 hearing on the petition. The petitioner may confront and cross-
3525 examine witnesses called by the state attorney. A record of the
3526 hearing shall be made by a certified court reporter or by court-
3527 approved electronic means. The court shall make written findings
3528 of fact and conclusions of law on the issues before it and issue
3529 a final order. The court shall grant the relief requested in the
3530 petition if the court finds, based on the evidence presented
3531 with respect to the petitioner's reputation, the petitioner's
3532 mental health record and, if applicable, criminal history
3533 record, the circumstances surrounding the firearm disability,
3534 and any other evidence in the record, that the petitioner will
3535 not be likely to act in a manner that is dangerous to public
3536 safety and that granting the relief would not be contrary to the
3537 public interest. If the final order denies relief, the
3538 petitioner may not petition again for relief from firearm
3539 disabilities until 1 year after the date of the final order. The
3540 petitioner may seek judicial review of a final order denying
3541 relief in the district court of appeal having jurisdiction over

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3542 the court that issued the order. The review shall be conducted
3543 de novo. Relief from a firearm disability granted under this
3544 sub-subparagraph has no effect on the loss of civil rights,
3545 including firearm rights, for any reason other than the
3546 particular adjudication of mental defectiveness or commitment to
3547 a mental institution from which relief is granted.

3548 e. Upon receipt of proper notice of relief from firearm
3549 disabilities granted under sub-subparagraph d., the department
3550 shall delete any mental health record of the person granted
3551 relief from the automated database of persons who are prohibited
3552 from purchasing a firearm based on court records of
3553 adjudications of mental defectiveness or commitments to mental
3554 institutions.

3555 f. The department is authorized to disclose data collected
3556 pursuant to this subparagraph to agencies of the Federal
3557 Government and other states for use exclusively in determining
3558 the lawfulness of a firearm sale or transfer. The department is
3559 also authorized to disclose this data to the Department of
3560 Agriculture and Consumer Services for purposes of determining
3561 eligibility for issuance of a concealed weapons or concealed
3562 firearms license and for determining whether a basis exists for
3563 revoking or suspending a previously issued license pursuant to
3564 s. 790.06(10). When a potential buyer or transferee appeals a
3565 nonapproval based on these records, the clerks of court and
3566 mental institutions shall, upon request by the department,
3567 provide information to help determine whether the potential
3568 buyer or transferee is the same person as the subject of the
3569 record. Photographs and any other data that could confirm or
3570 negate identity must be made available to the department for

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3571 such purposes, notwithstanding any other provision of state law
3572 to the contrary. Any such information that is made confidential
3573 or exempt from disclosure by law shall retain such confidential
3574 or exempt status when transferred to the department.

3575 Section 49. This act shall take effect July 1, 2016.