



1 A bill to be entitled
2 An act relating to practices of substance abuse
3 service providers; amending s. 16.56, F.S.;
4 authorizing the Office of Statewide Prosecution in the
5 Department of Legal Affairs to investigate and
6 prosecute patient brokering offenses; amending s.
7 397.311, F.S.; defining the term "clinical
8 supervisor"; conforming a cross-reference; amending s.
9 397.401, F.S.; increasing penalties for operating
10 without a license; renumbering and amending s.
11 397.405, F.S.; conforming a cross-reference; amending
12 s. 397.403, F.S.; requiring additional information to
13 be provided in a licensure application; requiring
14 accreditation for certain licensure renewals;
15 conforming a cross-reference; amending s. 397.407,
16 F.S.; revising duties of the Department of Children
17 and Families relating to licensure of service
18 providers; requiring licensure fees to cover the cost
19 of regulation; requiring the department to conduct
20 background screening for owners, directors, chief
21 financial officers, and clinical supervisors of a
22 service provider; limiting the instances in which the
23 department may issue a probationary license;
24 authorizing the department to deny a renewal
25 application of a regular license if received fewer



26 | than 30 days before expiration; revising limitations
27 | on referrals to recovery residences; renumbering and
28 | amending s. 397.451, F.S.; requiring clinical
29 | supervisors to undergo background screening; creating
30 | s. 397.410, F.S.; requiring the department to
31 | establish minimum standards for licensure of substance
32 | abuse service components; specifying standards,
33 | procedures, and staffing requirements; directing the
34 | department to establish the scope of deficiency by
35 | rule; requiring the department to complete certain
36 | steps in the rulemaking process by specific dates;
37 | requiring a report to the Governor and Legislature;
38 | amending s. 397.411, F.S.; authorizing the department
39 | to conduct announced and unannounced inspections;
40 | establishing classes of violations for substance abuse
41 | service providers; amending s. 397.415, F.S.;
42 | providing criteria for the department to impose a
43 | fine, corrective action plan, immediate moratorium, or
44 | emergency suspension; providing criteria for the
45 | department to deny, suspend, or revoke a license;
46 | repealing s. 397.471, F.S., relating to service
47 | provider facility standards; creating s. 397.4873,
48 | F.S.; limiting referrals to and from recovery
49 | residences in certain circumstances; providing
50 | exceptions; requiring a service provider to maintain



51 | certain referral records; providing penalties;
52 | amending s. 397.501, F.S.; providing that an
53 | application for the disclosure of an individual's
54 | records may be filed as part of an active criminal
55 | investigation; authorizing a court to approve an
56 | application for the disclosure of an individual's
57 | substance abuse treatment records without providing
58 | express notice of the application to the individual or
59 | identified parties with an interest in the records if
60 | the application is filed as part of an active criminal
61 | investigation; providing that upon implementation of
62 | the order granting such application, the individual
63 | and identified parties with an interest in the records
64 | must be afforded an opportunity to seek revocation or
65 | amendment of that order; creating s. 397.55, F.S.;
66 | providing legislative findings; prohibiting service
67 | providers, operators of recovery residences, and
68 | certain third parties from engaging in specified
69 | marketing practices; providing penalties; amending s.
70 | 501.605, F.S.; requiring entities providing substance
71 | abuse marketing services in accordance with s. 397.55,
72 | F.S., to be licensed; exempting such entities from
73 | licensure requirement to post a bond, letter of
74 | credit, or certificate of deposit; providing general
75 | civil remedies; amending s. 501.606, F.S.; requiring



76 | an entity providing substance abuse marketing services
77 | to make certain disclosures in its licensure
78 | application; amending s. 501.608, F.S.; authorizing
79 | the department to issue a cease and desist order and
80 | to order an entity providing substance abuse marketing
81 | services to leave an office if the entity is unable to
82 | properly display or produce a license or a receipt of
83 | filing of an affidavit of exemption; requiring such
84 | entity to exhibit an active license before a local
85 | occupational license may be issued or reissued;
86 | amending s. 501.612, F.S.; granting the Department of
87 | Agriculture and Consumer Services the ability to take
88 | action against an entity providing substance abuse
89 | marketing services without a license; amending s.
90 | 501.618, F.S.; subjecting an entity providing
91 | substance abuse marketing services to civil remedies
92 | for licensure violation; creating s. 817.0345, F.S.;
93 | prohibiting a person from knowingly and willfully
94 | making specified false or misleading statements or
95 | providing specified false or misleading information
96 | under certain circumstances; providing penalties;
97 | amending s. 817.505, F.S.; providing that it is
98 | unlawful for a person to offer or pay, or solicit or
99 | receive, benefits under certain circumstances;
100 | providing fines and penalties; amending s. 895.02,



101 F.S.; revising the definition of the term
 102 "racketeering activity"; amending s. 921.0022, F.S.;
 103 reclassifying the offense of patient brokering on the
 104 offense severity ranking chart of the Criminal
 105 Punishment Code; amending ss. 212.055, 394.4573,
 106 394.9085, 397.416, 397.753, 409.1757, 440.102, and
 107 985.045, F.S.; conforming cross-references; providing
 108 an effective date.

109
 110 Be It Enacted by the Legislature of the State of Florida:

111
 112 Section 1. Paragraph (a) of subsection (1) of section
 113 16.56, Florida Statutes, is amended to read:

114 16.56 Office of Statewide Prosecution.—

115 (1) There is created in the Department of Legal Affairs an
 116 Office of Statewide Prosecution. The office shall be a separate
 117 "budget entity" as that term is defined in chapter 216. The
 118 office may:

119 (a) Investigate and prosecute the offenses of:

120 1. Bribery, burglary, criminal usury, extortion, gambling,
 121 kidnapping, larceny, murder, prostitution, perjury, robbery,
 122 carjacking, ~~and~~ home-invasion robbery, and patient brokering;

123 2. Any crime involving narcotic or other dangerous drugs;

124 3. Any violation of the Florida RICO (Racketeer Influenced
 125 and Corrupt Organization) Act, including any offense listed in



126 the definition of racketeering activity in s. 895.02(8)(a),
127 providing such listed offense is investigated in connection with
128 a violation of s. 895.03 and is charged in a separate count of
129 an information or indictment containing a count charging a
130 violation of s. 895.03, the prosecution of which listed offense
131 may continue independently if the prosecution of the violation
132 of s. 895.03 is terminated for any reason;

133 4. Any violation of the Florida Anti-Fencing Act;

134 5. Any violation of the Florida Antitrust Act of 1980, as
135 amended;

136 6. Any crime involving, or resulting in, fraud or deceit
137 upon any person;

138 7. Any violation of s. 847.0135, relating to computer
139 pornography and child exploitation prevention, or any offense
140 related to a violation of s. 847.0135 or any violation of
141 chapter 827 where the crime is facilitated by or connected to
142 the use of the Internet or any device capable of electronic data
143 storage or transmission;

144 8. Any violation of chapter 815;

145 9. Any criminal violation of part I of chapter 499;

146 10. Any violation of the Florida Motor Fuel Tax Relief Act
147 of 2004;

148 11. Any criminal violation of s. 409.920 or s. 409.9201;

149 12. Any crime involving voter registration, voting, or
150 candidate or issue petition activities;



151 13. Any criminal violation of the Florida Money Laundering
152 Act;

153 14. Any criminal violation of the Florida Securities and
154 Investor Protection Act; or

155 15. Any violation of chapter 787, as well as any and all
156 offenses related to a violation of chapter 787;

157
158 or any attempt, solicitation, or conspiracy to commit any of the
159 crimes specifically enumerated above. The office shall have such
160 power only when any such offense is occurring, or has occurred,
161 in two or more judicial circuits as part of a related
162 transaction, or when any such offense is connected with an
163 organized criminal conspiracy affecting two or more judicial
164 circuits. Informations or indictments charging such offenses
165 shall contain general allegations stating the judicial circuits
166 and counties in which crimes are alleged to have occurred or the
167 judicial circuits and counties in which crimes affecting such
168 circuits or counties are alleged to have been connected with an
169 organized criminal conspiracy.

170 Section 2. Subsections (8) through (48) of section
171 397.311, Florida Statutes, are renumbered as subsections (9)
172 through (49), respectively, present subsection (41) is amended,
173 and a new subsection (8) is added to that section, to read:

174 397.311 Definitions.—As used in this chapter, except part
175 VIII, the term:



176 (8) "Clinical supervisor" means a person who manages
177 personnel who provide direct clinical treatment.

178 ~~(42)-(41)~~ "Service component" or "component" means a
179 discrete operational entity within a service provider which is
180 subject to licensing as defined by rule. Service components
181 include prevention, intervention, and clinical treatment
182 described in subsection (26) ~~(25)~~.

183 Section 3. Subsection (2) of section 397.401, Florida
184 Statutes, is amended to read:

185 397.401 License required; penalty; injunction; rules
186 waivers.—

187 (2) A violation of subsection (1) is a felony ~~misdemeanor~~
188 of the third ~~first~~ degree, punishable as provided in s. 775.082,
189 ~~or~~ s. 775.083, or s. 775.084.

190 Section 4. Section 397.405, Florida Statutes, is
191 renumbered as 397.4012, Florida Statutes, and amended to read:

192 397.4012 ~~397.405~~ Exemptions from licensure.—The following
193 are exempt from the licensing provisions of this chapter:

194 (1) A hospital or hospital-based component licensed under
195 chapter 395.

196 (2) A nursing home facility as defined in s. 400.021.

197 (3) A substance abuse education program established
198 pursuant to s. 1003.42.

199 (4) A facility or institution operated by the Federal
200 Government.



201 (5) A physician or physician assistant licensed under
202 chapter 458 or chapter 459.

203 (6) A psychologist licensed under chapter 490.

204 (7) A social worker, marriage and family therapist, or
205 mental health counselor licensed under chapter 491.

206 (8) A legally cognizable church or nonprofit religious
207 organization or denomination providing substance abuse services,
208 including prevention services, which are solely religious,
209 spiritual, or ecclesiastical in nature. A church or nonprofit
210 religious organization or denomination providing any of the
211 licensed service components itemized under s. 397.311(26)
212 ~~397.311(25)~~ is not exempt from substance abuse licensure but
213 retains its exemption with respect to all services which are
214 solely religious, spiritual, or ecclesiastical in nature.

215 (9) Facilities licensed under chapter 393 which, in
216 addition to providing services to persons with developmental
217 disabilities, also provide services to persons developmentally
218 at risk as a consequence of exposure to alcohol or other legal
219 or illegal drugs while in utero.

220 (10) DUI education and screening services provided
221 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.
222 Persons or entities providing treatment services must be
223 licensed under this chapter unless exempted from licensing as
224 provided in this section.

225 (11) A facility licensed under s. 394.875 as a crisis



226 stabilization unit.

227

228 The exemptions from licensure in this section do not apply to
229 any service provider that receives an appropriation, grant, or
230 contract from the state to operate as a service provider as
231 defined in this chapter or to any substance abuse program
232 regulated pursuant to s. 397.4014 ~~397.406~~. Furthermore, this
233 chapter may not be construed to limit the practice of a
234 physician or physician assistant licensed under chapter 458 or
235 chapter 459, a psychologist licensed under chapter 490, a
236 psychotherapist licensed under chapter 491, or an advanced
237 registered nurse practitioner licensed under part I of chapter
238 464, who provides substance abuse treatment, so long as the
239 physician, physician assistant, psychologist, psychotherapist,
240 or advanced registered nurse practitioner does not represent to
241 the public that he or she is a licensed service provider and
242 does not provide services to individuals pursuant to part V of
243 this chapter. Failure to comply with any requirement necessary
244 to maintain an exempt status under this section is a misdemeanor
245 of the first degree, punishable as provided in s. 775.082 or s.
246 775.083.

247 Section 5. Section 397.406, Florida Statutes, is
248 renumbered as section 397.4014, Florida Statutes.

249 Section 6. Section 397.403, Florida Statutes, is amended
250 to read:



251 397.403 License application.—

252 (1) Applicants for a license under this chapter must apply
253 to the department on forms provided by the department and in
254 accordance with rules adopted by the department. Applications
255 must include at a minimum:

256 (a) Information establishing the name and address of the
257 applicant service provider and its director, and also of each
258 member, owner, officer, and shareholder, if any.

259 (b) Information establishing the competency and ability of
260 the applicant service provider and its director to carry out the
261 requirements of this chapter.

262 (c) Proof satisfactory to the department of the applicant
263 service provider's financial ability and organizational
264 capability to operate in accordance with this chapter.

265 (d) Proof of liability insurance coverage in amounts set
266 by the department by rule.

267 (e) Sufficient information to conduct background screening
268 for all owners, directors, chief financial officers, and
269 clinical supervisors as provided in s. 397.4073 ~~397.451~~.

270 ~~1. If the results of the background screening indicate~~
271 ~~that any owner, director, or chief financial officer has been~~
272 ~~found guilty of, regardless of adjudication, or has entered a~~
273 ~~plea of nolo contendere or guilty to any offense prohibited~~
274 ~~under the screening standard, a license may not be issued to the~~
275 ~~applicant service provider unless an exemption from~~



276 ~~disqualification has been granted by the department as set forth~~
277 ~~in chapter 435. The owner, director, or chief financial officer~~
278 ~~has 90 days within which to obtain the required exemption,~~
279 ~~during which time the applicant's license remains in effect.~~

280 ~~2. If any owner, director, or chief financial officer is~~
281 ~~arrested or found guilty of, regardless of adjudication, or has~~
282 ~~entered a plea of nolo contendere or guilty to any offense~~
283 ~~prohibited under the screening standard while acting in that~~
284 ~~capacity, the provider shall immediately remove the person from~~
285 ~~that position and shall notify the department within 2 days~~
286 ~~after such removal, excluding weekends and holidays. Failure to~~
287 ~~remove the owner, director, or chief financial officer will~~
288 ~~result in revocation of the provider's license.~~

289 (f) Proof of satisfactory fire, safety, and health
290 inspections, and compliance with local zoning ordinances.
291 Service providers operating under a regular annual license shall
292 have 18 months from the expiration date of their regular license
293 within which to meet local zoning requirements. Applicants for a
294 new license must demonstrate proof of compliance with zoning
295 requirements prior to the department issuing a probationary
296 license.

297 (g) A comprehensive outline of the proposed services,
298 including sufficient detail to evaluate compliance with clinical
299 and treatment best practices, for:

300 1. Any new applicant; or



301 2. Any licensed service provider adding a new licensable
302 service component.

303 (h) Proof of the ability to provide services in accordance
304 with department rules.

305 (i) Any other information that the department finds
306 necessary to determine the applicant's ability to carry out its
307 duties under this chapter and applicable rules.

308 ~~(2)-(3)~~ The department shall accept proof of accreditation
309 by an accrediting organization whose standards incorporate
310 comparable licensure regulations required by this state, or
311 through another nationally recognized certification process that
312 is acceptable to the department and meets the minimum licensure
313 requirements under this chapter, in lieu of requiring the
314 applicant to submit the information required by paragraphs
315 (1) (a)-(c).

316 (3) Applications for licensure renewal must include proof
317 of application for accreditation for each licensed service
318 component providing clinical treatment by an accrediting
319 organization that is acceptable to the department for the first
320 renewal, and proof of accreditation for any subsequent renewals.

321 ~~(4)-(2)~~ The burden of proof with respect to any requirement
322 for application for licensure as a service provider under this
323 chapter is on the applicant.

324 Section 7. Subsections (5) through (10) of section
325 397.407, Florida Statutes, are renumbered as subsections (6)



326 through (11), respectively, present subsections (1), (5), (6),
327 (7), and (11) are amended, and a new subsection (5) is added to
328 that section, to read:

329 397.407 Licensure process; fees.—

330 (1) The department shall establish the licensure process
331 to include fees and categories of licenses and must prescribe a
332 fee range that is based, at least in part, on the number and
333 complexity of programs listed in s. 397.311(26) ~~397.311(25)~~
334 which are operated by a licensee. The fees from the licensure of
335 service components are sufficient to cover ~~at least 50 percent~~
336 ~~of~~ the costs of regulating the service components. The
337 department shall specify a fee range for public and privately
338 funded licensed service providers. Fees for privately funded
339 licensed service providers must exceed the fees for publicly
340 funded licensed service providers.

341 (5) The department shall conduct background screening, as
342 provided in s. 397.4073, as part of the licensure application
343 for all owners, directors, chief financial officers, and
344 clinical supervisors of a service provider. If the results of
345 the background screening indicate that the individual has been
346 found guilty of, regardless of adjudication, or has entered a
347 plea of nolo contendere or guilty to any offense prohibited
348 under the screening standard, a license may not be issued to the
349 applicant service provider unless an exemption from
350 disqualification has been granted by the department as set forth



351 in chapter 435. The individual has 90 days within which to
352 obtain the required exemption, during which time the applicant's
353 license remains in effect.

354 (6)-(5) The department may issue probationary, regular, and
355 interim licenses. The department shall issue one license for
356 each service component that is operated by a service provider
357 and defined pursuant to s. 397.311(26) ~~397.311(25)~~. The license
358 is valid only for the specific service components listed for
359 each specific location identified on the license. The licensed
360 service provider shall apply for a new license at least 60 days
361 before the addition of any service components or 30 days before
362 the relocation of any of its service sites. Provision of service
363 components or delivery of services at a location not identified
364 on the license may be considered an unlicensed operation that
365 authorizes the department to seek an injunction against
366 operation as provided in s. 397.401, in addition to other
367 sanctions authorized by s. 397.415. Probationary and regular
368 licenses may be issued only after all required information has
369 been submitted. A license may not be transferred. As used in
370 this subsection, the term "transfer" includes, but is not
371 limited to, the transfer of a majority of the ownership interest
372 in the licensed entity or transfer of responsibilities under the
373 license to another entity by contractual arrangement.

374 (7)-(6) Upon receipt of a complete application, payment of
375 applicable fees, and a demonstration of substantial compliance



376 with all applicable statutory and regulatory requirements, the
377 department may issue a probationary license ~~may be issued~~ to a
378 service provider applicant with ~~in the initial stages of~~
379 ~~developing~~ services that are not yet fully operational. The
380 department may not issue a probationary license when doing so
381 would place the health, safety, or welfare of individuals at
382 risk upon completion of all application requirements itemized in
383 ~~s. 397.403(1) and upon demonstration of the applicant's ability~~
384 ~~to comply with all applicable statutory and regulatory~~
385 ~~requirements.~~ A probationary license expires 90 days after
386 issuance and may not be reissued ~~once for an additional 90-day~~
387 ~~period if the applicant has substantially complied with all~~
388 ~~requirements for regular licensure or has initiated action to~~
389 ~~satisfy all requirements.~~ During the probationary period the
390 department shall monitor the delivery of services.

391 Notwithstanding s. 120.60(5), the department may order a
392 probationary licensee to cease and desist operations at any time
393 it is found to be substantially out of compliance with licensure
394 standards. This cease-and-desist order is exempt from the
395 requirements of s. 120.60(6).

396 ~~(8)-(7)~~ A regular license may be issued to:

397 (a) A new applicant at the end of the probationary period.

398 (b) A licensed applicant that holds a regular license and
399 is seeking renewal.

400 (c) An applicant for a service component operating under



401 an interim license upon successful satisfaction of the
402 requirements for a regular license.

403
404 In order to be issued a regular license, the applicant must be
405 in compliance with statutory and regulatory requirements. An
406 application for renewal of a regular license must be submitted
407 to the department at least 60 days before the license expires.
408 The department may deny a renewal application submitted fewer
409 than 30 days before the license expires.

410 ~~(11) Effective July 1, 2016, a service provider licensed~~
411 ~~under this part may not refer a current or discharged patient to~~
412 ~~a recovery residence unless the recovery residence holds a valid~~
413 ~~certificate of compliance as provided in s. 397.487 and is~~
414 ~~actively managed by a certified recovery residence administrator~~
415 ~~as provided in s. 397.4871 or the recovery residence is owned~~
416 ~~and operated by a licensed service provider or a licensed~~
417 ~~service provider's wholly owned subsidiary. For purposes of this~~
418 ~~subsection, the term "refer" means to inform a patient by any~~
419 ~~means about the name, address, or other details of the recovery~~
420 ~~residence. However, this subsection does not require a licensed~~
421 ~~service provider to refer any patient to a recovery residence.~~

422 Section 8. Section 397.451, Florida Statutes, is
423 renumbered as section 397.4073, Florida Statutes, and paragraph
424 (a) of subsection (1), subsection (2), and paragraph (b) of
425 subsection (3) of that section are amended to read:



426 397.4073 ~~397.451~~ Background checks of service provider
427 personnel.—

428 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
429 EXCEPTIONS.—

430 (a) Background checks shall apply as follows:

431 1. All owners, directors, ~~and~~ chief financial officers,
432 and clinical supervisors of service providers are subject to
433 level 2 background screening as provided under chapter 435.
434 Inmate substance abuse programs operated directly or under
435 contract with the Department of Corrections are exempt from this
436 requirement.

437 2. All service provider personnel who have direct contact
438 with children receiving services or with adults who are
439 developmentally disabled receiving services are subject to level
440 2 background screening as provided under chapter 435.

441 (2) EMPLOYMENT HISTORY CHECKS; CHECKS OF REFERENCES.—The
442 department shall assess employment history checks and checks of
443 references for all owners, directors, ~~and~~ chief financial
444 officers, and clinical supervisors, and the directors shall
445 assess employment history checks and checks of references for
446 each employee who has direct contact with children receiving
447 services or adults who are developmentally disabled receiving
448 services.

449 (3) PERSONNEL EXEMPT FROM BEING REFINGERPRINTED OR
450 RECHECKED.—



451 (b) Service provider owners, directors, ~~or~~ chief financial
452 officers, or clinical supervisors who are not covered by
453 paragraph (a) who provide proof of compliance with the level 2
454 background screening requirements which has been submitted
455 within the previous 5 years in compliance with any other state
456 health care licensure requirements are not required to be
457 refingerprinted or rechecked.

458 Section 9. Section 397.461, Florida Statutes, is
459 renumbered as section 397.4075, Florida Statutes.

460 Section 10. Section 397.410, Florida Statutes, is created
461 to read:

462 397.410 Licensure requirements; minimum standards; rules.-

463 (1) The department shall establish minimum requirements
464 for licensure of each service component, as defined in s.
465 397.311(26), including, but not limited to:

466 (a) Standards and procedures for the administrative
467 management of the licensed service component, including
468 procedures for recordkeeping, referrals, and financial
469 management.

470 (b) Standards consistent with clinical and treatment best
471 practices that ensure the provision of quality treatment for
472 individuals receiving substance abuse treatment services.

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



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

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

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

483 3. Hours of staff coverage.

484 4. The maximum number of individuals who may receive
485 clinical services together in a group setting.

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

489 (d) Service provider facility standards, including, but
490 not limited to:

491 1. Safety and adequacy of the facility and grounds.

492 2. Space, furnishings, and equipment for each individual
493 served.

494 3. Infection control, housekeeping, sanitation, and
495 facility maintenance.

496 4. Meals and snacks.

497 (e) Disaster planning policies and procedures.

498 (2) The department shall adopt rules to provide that, if
499 the criteria established under subsection (1) are not met, such
500 deficiencies shall be classified according to the nature and the



501 scope of the deficiency. The scope shall be cited as isolated,
502 patterned, or widespread. The department shall indicate the
503 classification on the face of the notice of deficiencies in
504 accordance with s. 397.411.

505 (a) An isolated deficiency is a deficiency affecting one
506 or a very limited number of individuals or involving one or a
507 very limited number of staff, or a situation that occurred only
508 occasionally or in a very limited number of locations.

509 (b) A patterned deficiency is a deficiency where more than
510 a very limited number of individuals are affected or more than a
511 very limited number of staff are involved, the situation has
512 occurred in several locations, or the same individual or
513 individuals have been affected by repeated occurrences of the
514 same deficient practice but the effect of the deficient practice
515 is not found to be pervasive throughout the facility.

516 (c) A widespread deficiency is a deficiency in which the
517 problems causing the deficiency are pervasive throughout the
518 facility or represent systemic failure that has affected or has
519 the potential to affect a large portion of individuals.

520 (3) By October 1, 2017, the department shall publish a
521 notice of development of rulemaking, and by January 1, 2018, the
522 department shall publish a notice of proposed rule pursuant to s
523 120.54(3) (a) to implement the provisions of this section.

524 (4) The department shall provide a report to the Governor,
525 the President of the Senate, and the Speaker of the House of



526 Representatives by December 1, 2020, concerning the
527 appropriateness of service component licensure requirements as
528 those requirements apply to the qualifications of personnel
529 providing direct clinical treatment. The report shall include,
530 but not be limited to, the requirements established in rule, the
531 number and nature of complaints received regarding personnel
532 providing direct clinical treatment and about the qualifications
533 of the individuals subject to the complaints, and the
534 precipitating cause, number, and types of licensure actions
535 taken by the department regarding such personnel.

536 Section 11. Section 397.419, Florida Statutes, is
537 renumbered as section 397.4103, Florida Statutes.

538 Section 12. Paragraph (a) of subsection (1) and subsection
539 (4) of section 397.411, Florida Statutes, are amended, and
540 subsection (7) is added to that section, to read:

541 397.411 Inspection; right of entry; classification of
542 violations; records.—

543 (1) (a) An authorized agent of the department may conduct
544 announced or unannounced inspections, ~~enter and inspect~~ at any
545 time, of a licensed service provider to determine whether it is
546 in compliance with statutory and regulatory requirements,
547 including, but not limited to, the minimum requirements for
548 licensure in s. 397.410.

549 (4) The authorized agents of the department may ~~shall~~
550 schedule periodic inspections of licensed service providers in



551 order to minimize costs and the disruption of services; however,
552 such authorized agents may inspect the facilities of any
553 licensed service provider at any time.

554 (7) Violations of this part or applicable rules shall be
555 classified according to the nature of the violation and the
556 gravity of its probable effect on an individual receiving
557 substance abuse treatment. Violations shall be classified on the
558 written notice as follows:

559 (a) Class "I" violations are those conditions or
560 occurrences related to the operation and maintenance of a
561 service component or to the treatment of an individual which the
562 department determines present an imminent danger or a
563 substantial probability that death or serious physical or
564 emotional harm would result therefrom. The condition or practice
565 constituting a class I violation shall be abated or eliminated
566 within 24 hours, unless a fixed period, as determined by the
567 department, is required for correction. The department shall
568 impose an administrative fine as provided by law for a cited
569 class I violation. A fine shall be levied notwithstanding the
570 correction of the violation.

571 (b) Class "II" violations are those conditions or
572 occurrences related to the operation and maintenance of a
573 service component or to the treatment of an individual which the
574 department determines directly threaten the physical or
575 emotional health, safety, or security of the individual, other



576 than class I violations. The department shall impose an
577 administrative fine as provided by law for a cited class II
578 violation. A fine shall be levied notwithstanding the correction
579 of the violation.

580 (c) Class "III" violations are those conditions or
581 occurrences related to the operation and maintenance of a
582 service component or to the treatment of an individual which the
583 department determines indirectly or potentially threaten the
584 physical or emotional health, safety, or security of the
585 individual, other than class I or class II violations. The
586 department shall impose an administrative fine as provided in
587 this section for a cited class III violation. A citation for a
588 class III violation must specify the time within which the
589 violation is required to be corrected. If a class III violation
590 is corrected within the time specified, a fine may not be
591 imposed.

592 (d) Class "IV" violations are those conditions or
593 occurrences related to the operation and maintenance of a
594 service component or to required reports, forms, or documents
595 that do not have the potential of negatively affecting an
596 individual. These violations are of a type that the department
597 determines do not threaten the health, safety, or security of an
598 individual. The department shall impose an administrative fine
599 as provided in this section for a cited class IV violation. A
600 citation for a class IV violation must specify the time within



601 which the violation is required to be corrected. If a class IV
602 violation is corrected within the time specified, a fine may not
603 be imposed.

604 Section 13. Subsection (1) of section 397.415, Florida
605 Statutes, is amended to read:

606 397.415 Denial, suspension, and revocation; other
607 remedies.—

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

614 (a) The department may:

615 1. Impose an administrative fine for a violation that is
616 designated as a class I, class II, class III, or class IV
617 violation pursuant to s. 397.411.

618 2. Impose an administrative fine for a violation that is
619 not designated as a class I, class II, class III, or class IV
620 violation pursuant to s. 397.411. Unless otherwise specified by
621 law, the amount of the fine may not exceed \$500 for each
622 violation. Unclassified violations may include:

623 a. Violating any term or condition of a license.

624 b. Violating any provision of this chapter or applicable
625 rules.



626 c. Providing services beyond the scope of the license.
627 d. Violating a moratorium imposed pursuant to s. 397.415.
628 3. Establish criteria by rule for the amount or aggregate
629 limitation of administrative fines applicable to this chapter
630 and applicable rules, unless the amount or aggregate limitation
631 of the fine is prescribed by statute. Each day of violation
632 constitutes a separate violation and is subject to a separate
633 fine. For fines imposed by final order of the department and not
634 subject to further appeal, the violator shall pay the fine plus
635 interest at the rate specified in s. 55.03 for each day beyond
636 the date set by the department for payment of the fine.

637 (b) The department may require a corrective action plan
638 approved by the department for any violation of this part or
639 applicable rules.

640 (c) The department may impose an immediate moratorium or
641 emergency suspension as defined in s. 120.60 ~~a moratorium~~ on
642 admissions to any service component of a licensed service
643 provider if the department determines that conditions present
644 ~~are~~ a threat to the ~~public~~ health, ~~or~~ safety, or welfare of an
645 individual or the public. Notice of the moratorium or emergency
646 suspension shall be posted and visible to the public at the
647 location of the provider until the action is lifted.

648 ~~(b) May impose an administrative penalty of up to \$500 per~~
649 ~~day against a licensed service provider operating in violation~~
650 ~~of any fire-related, safety-related, or health-related statutory~~



651 ~~or regulatory requirement. Fines collected under this paragraph~~
652 ~~must be deposited in the Operations and Maintenance Trust Fund.~~

653 (d)-(e) The department may deny, suspend, or revoke the
654 license of a service provider or may suspend or revoke the
655 license as to the operation of any service component or location
656 identified on the license for:

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

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

663 3. A violation of this chapter or applicable rules.

664 4. A demonstrated pattern of deficient performance.

665 5. Failure to immediately remove service provider
666 personnel subject to background screening pursuant to s.
667 397.4073 who are arrested or found guilty of, regardless of
668 adjudication, or have entered a plea of nolo contendere or
669 guilty to any offense prohibited under the screening standard
670 and notify the department within 2 days after such removal,
671 excluding weekends and holidays if, after notice, the department
672 determines that a service provider has failed to correct the
673 substantial or chronic violation of any statutory or regulatory
674 requirement that impacts the quality of care.

675 Section 14. Section 397.471, Florida Statutes, is



676 repealed.

677 Section 15. Section 397.4873, Florida Statutes, is created
678 to read:

679 397.4873 Referrals to or from recovery residences;
680 prohibitions; penalties.—

681 (1) A service provider licensed under this part may not
682 make a referral of a prospective, current, or discharged patient
683 to, or accept a referral of such a patient from, a recovery
684 residence unless the recovery residence holds a valid
685 certificate of compliance as provided in s. 397.487 and is
686 actively managed by a certified recovery residence administrator
687 as provided in s. 397.4871.

688 (2) Subsection (1) does not apply to:

689 (a) A licensed service provider under contract with a
690 managing entity as defined in s. 394.9082.

691 (b) Referrals by a recovery residence to a licensed
692 service provider when the recovery residence or its owners,
693 directors, operators, or employees do not benefit, directly or
694 indirectly, from the referral.

695 (c) Referrals made before July 1, 2018, by a licensed
696 service provider to that licensed service provider's wholly
697 owned subsidiary.

698 (3) For purposes of this section, a licensed service
699 provider or recovery residence shall be considered to have made
700 a referral if the provider or recovery residence has informed a



701 patient by any means about the name, address, or other details
702 of a recovery residence or licensed service provider, or
703 informed a licensed service provider or a recovery residence of
704 any identifying details about a patient.

705 (4) A licensed service provider shall maintain records of
706 referrals to or from recovery residences as may be prescribed by
707 the department in rule.

708 (5) After June 30, 2019, a licensed service provider
709 violating this section shall be subject to an administrative
710 fine of \$1,000 per occurrence. Repeat violations of this section
711 may subject a provider to license suspension or revocation
712 pursuant to s. 397.415.

713 (6) Nothing in this section requires a licensed service
714 provider to refer a patient to or to accept a referral of a
715 patient from a recovery residence.

716 Section 16. Paragraphs (g) and (h) of subsection (7) of
717 section 397.501, Florida Statutes, are amended to read:

718 397.501 Rights of individuals.—Individuals receiving
719 substance abuse services from any service provider are
720 guaranteed protection of the rights specified in this section,
721 unless otherwise expressly provided, and service providers must
722 ensure the protection of such rights.

723 (7) RIGHT TO CONFIDENTIALITY OF INDIVIDUAL RECORDS.—

724 (g) An order authorizing the disclosure of an individual's
725 records may be applied for by any person having a legally



726 recognized interest in the disclosure which is sought. The
727 application may be filed alone ~~separately~~ or as part of a
728 pending civil action or an active criminal investigation in
729 which it appears that the individual's records are needed to
730 provide evidence. An application must use a fictitious name,
731 such as John Doe or Jane Doe, to refer to any individual and may
732 not contain or otherwise disclose any identifying information
733 unless the individual is the applicant or has given a written
734 consent to disclosure or the court has ordered the record of the
735 proceeding sealed from public scrutiny.

736 (h) 1. For applications filed alone or as part of a pending
737 civil action, the individual and the person holding the records
738 from whom disclosure is sought must be given adequate notice in
739 a manner which will not disclose identifying information to
740 other persons, and an opportunity to file a written response to
741 the application, or to appear in person, for the limited purpose
742 of providing evidence on the statutory and regulatory criteria
743 for the issuance of the court order.

744 2. Applications filed as part of an active criminal
745 investigation may, in the discretion of the court, be granted
746 without notice. Although no express notice is required to the
747 agents, owners, and employees of the treatment provider or to
748 any individual whose records are to be disclosed, upon
749 implementation of an order so granted, any of these persons must
750 be afforded an opportunity to seek revocation or amendment of



751 the order, limited to the presentation of evidence on the
752 statutory and regulatory criteria for the issuance of the order.

753 Section 17. Section 397.55, Florida Statutes, is created
754 to read:

755 397.55 Prohibition of deceptive marketing practices.—

756 (1) The Legislature recognizes that consumers of substance
757 abuse treatment have disabling conditions and that such
758 consumers and their families are vulnerable and at risk of being
759 easily victimized by fraudulent marketing practices that
760 adversely impact the delivery of health care. To protect the
761 health, safety, and welfare of this vulnerable population, a
762 service provider, an operator of a recovery residence, or a
763 third party who provides any form of advertising or marketing
764 services to a service provider or an operator of a recovery
765 residence may not engage in any of the following marketing
766 practices:

767 (a) Making a false or misleading statement or providing
768 false or misleading information about the provider's or
769 operator's or third party's products, goods, services, or
770 geographical locations in its marketing, advertising materials,
771 or media or on its website.

772 (b) Including on its website false information or
773 electronic links, coding, or activation that provides false
774 information or that surreptitiously directs the reader to
775 another website.



776 (c) Conduct prohibited by s. 817.505.

777 (d) Entering into a contract with a marketing provider who
778 agrees to generate referrals or leads for the placement of
779 patients with a service provider or in a recovery residence
780 through a call center or a web-based presence, unless the
781 service provider or the operator of the recovery residence
782 discloses the following to the prospective patient so that the
783 patient can make an informed health care decision:

784 1. Information about the specific licensed service
785 providers or recovery residences that are represented by the
786 marketing provider and pay a fee to the marketing provider,
787 including the identity of such service providers or recovery
788 residences; and

789 2. Clear and concise instructions that allow the
790 prospective patient to easily access lists of licensed service
791 providers and recovery residences on the department website.

792 (2) In addition to any other punishment authorized by law,
793 a person or entity that knowingly and willfully violates
794 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (d) commits
795 a misdemeanor of the first degree, punishable as provided in s.
796 775.082 or s. 775.083. A violation of paragraph (1) (c) is a
797 violation of the prohibition on patient brokering and may
798 subject the party committing the violation to criminal penalties
799 under s. 817.505.

800 Section 18. Subsections (1), (2), (5), and (7) of section



801 501.605, Florida Statutes, are amended to read:

802 501.605 Licensure of commercial telephone sellers and
803 entities providing substance abuse marketing services.—

804 (1) Before ~~Prior to~~ doing business in this state, a
805 commercial telephone seller or an entity providing substance
806 abuse marketing services in accordance with s. 397.55 shall
807 obtain a license from the department. Doing business in this
808 state includes either telephone solicitation from a location in
809 Florida or solicitation from other states or nations of
810 purchasers located in Florida.

811 (2) An applicant for a license as a commercial telephone
812 seller or as an entity providing substance abuse marketing
813 services must submit to the department, in such form as it
814 prescribes, a written application for the license. The
815 application must set forth the following information:

816 (a) The true name, date of birth, driver license number or
817 other valid form of identification, and home address of the
818 applicant, including each name under which he or she intends to
819 do business.

820 (b) Each business or occupation engaged in by the
821 applicant during the 3 years immediately preceding the date of
822 the application, and the location thereof.

823 (c) The previous experience of the applicant as a
824 commercial telephone seller or salesperson or as an entity
825 providing substance abuse marketing services.



826 (d) Whether the applicant has previously been arrested
827 for, convicted of, or is under indictment or information for, a
828 felony and, if so, the nature of the felony. Conviction includes
829 a finding of guilt where adjudication has been withheld.

830 (e) Whether the applicant has previously been convicted
831 of, or is under indictment or information for, racketeering or
832 any offense involving fraud, theft, embezzlement, fraudulent
833 conversion, or misappropriation of property. Conviction includes
834 a finding of guilt where adjudication has been withheld.

835 (f) Whether there has ever been a judicial or
836 administrative finding that the applicant has previously been
837 convicted of acting as a salesperson without a license, or
838 whether such a license has previously been refused, revoked, or
839 suspended in any jurisdiction.

840 (g) Whether the applicant has worked for, or been
841 affiliated with, a company that has had entered against it an
842 injunction, a temporary restraining order, or a final judgment
843 or order, including a stipulated judgment or order, an assurance
844 of voluntary compliance, or any similar document, in any civil
845 or administrative action involving racketeering, fraud, theft,
846 embezzlement, fraudulent conversion, or misappropriation of
847 property or the use of any untrue, deceptive, or misleading
848 representation or the use of any unfair, unlawful, or deceptive
849 trade practice.

850 (h) Whether the applicant has had entered against him or



851 her an injunction, a temporary restraining order, or a final
852 judgment or order, including a stipulated judgment or order, an
853 assurance of voluntary compliance, or any similar document, in
854 any civil or administrative action involving racketeering,
855 fraud, theft, embezzlement, fraudulent conversion, or
856 misappropriation of property or the use of any untrue,
857 deceptive, or misleading representation or the use of any
858 unfair, unlawful, or deceptive trade practice; and whether or
859 not there is any litigation pending against the applicant.

860 (i) The name of any parent or affiliated entity that:

- 861 1. Will engage in a business transaction with the
862 purchaser relating to any sale solicited by the applicant; or
- 863 2. Accepts responsibility or is otherwise held out by the
864 applicant as being responsible for any statement or act of the
865 applicant relating to any sale solicited by the applicant.

866 (j) The complete street address of each location,
867 designating the principal location, from which the applicant
868 will be doing business. The street address may not be a mail
869 drop.

870 (k) A list of all telephone numbers to be used by the
871 applicant, with the address where each telephone using these
872 numbers will be located.

873 (l) The true name, current home address, date of birth,
874 and all other names by which known, or previously known, of
875 each:



876 1. Principal officer, director, trustee, shareholder,
877 owner, or partner of the applicant, and of each other person
878 responsible for the management of the business of the applicant.

879 2. Office manager or other person principally responsible
880 for a location from which the applicant will do business.

881 3. Salesperson or other person to be employed by the
882 applicant.

883
884 The application shall be accompanied by a copy of any: Script,
885 outline, or presentation the applicant will require or suggest a
886 salesperson to use when soliciting, or, if no such document is
887 used, a statement to that effect; sales information or
888 literature to be provided by the applicant to a salesperson; and
889 sales information or literature to be provided by the applicant
890 to a purchaser in connection with any solicitation.

891 (5) An application filed pursuant to this part must be
892 verified and accompanied by:

893 (a) A bond, letter of credit, or certificate of deposit
894 satisfying the requirements of s. 501.611. An entity providing
895 substance abuse marketing services in accordance with s. 397.55
896 is exempt from this requirement.

897 (b) A fee for licensing in the amount of \$1,500. The fee
898 shall be deposited into the General Inspection Trust Fund. The
899 department shall waive the initial license fee for an honorably
900 discharged veteran of the United States Armed Forces, the spouse



901 of such a veteran, or a business entity that has a majority
902 ownership held by such a veteran or spouse if the department
903 receives an application, in a format prescribed by the
904 department, within 60 months after the date of the veteran's
905 discharge from any branch of the United States Armed Forces. To
906 qualify for the waiver, a veteran must provide to the department
907 a copy of his or her DD Form 214, as issued by the United States
908 Department of Defense, or another acceptable form of
909 identification as specified by the Department of Veterans'
910 Affairs; the spouse of a veteran must provide to the department
911 a copy of the veteran's DD Form 214, as issued by the United
912 States Department of Defense, or another acceptable form of
913 identification as specified by the Department of Veterans'
914 Affairs, and a copy of a valid marriage license or certificate
915 verifying that he or she was lawfully married to the veteran at
916 the time of discharge; or a business entity must provide to the
917 department proof that a veteran or the spouse of a veteran holds
918 a majority ownership in the business, a copy of the veteran's DD
919 Form 214, as issued by the United States Department of Defense,
920 or another acceptable form of identification as specified by the
921 Department of Veterans' Affairs, and, if applicable, a copy of a
922 valid marriage license or certificate verifying that the spouse
923 of the veteran was lawfully married to the veteran at the time
924 of discharge.

925 (7) It is a violation of this part for a commercial



926 | telephone seller or an entity providing substance abuse
927 | marketing services to:

928 | (a) Fail to maintain a valid license.

929 | (b) Advertise that one is licensed as a commercial seller
930 | or as an entity providing substance abuse marketing services or
931 | represent that such licensing constitutes approval or
932 | endorsement by any government or governmental office or agency.

933 | (c) Provide inaccurate or incomplete information to the
934 | department when making a license application.

935 | (d) Misrepresent that a person is registered or that such
936 | a person has a valid license number.

937 | Section 19. Subsection (1) of section 501.606, Florida
938 | Statutes, is amended to read:

939 | 501.606 Disclosures required of commercial telephone
940 | sellers and entities providing substance abuse marketing
941 | services.—

942 | (1) With respect to any person identified pursuant to s.
943 | 501.605, an applicant for a license as a commercial telephone
944 | seller or as an entity providing substance abuse marketing
945 | services must state in his or her application the identity of
946 | any affiliated commercial seller or salesperson who:

947 | (a) Has been convicted of, or is under indictment or
948 | information for, racketeering or any offense involving fraud,
949 | theft, embezzlement, fraudulent conversion, or misappropriation
950 | of property. Conviction includes a finding of guilt where



951 adjudication has been withheld;

952 (b) Is involved in pending litigation or has had entered
953 against him or her an injunction, a temporary restraining order,
954 or a final judgment or order, including a stipulated judgment or
955 order, an assurance of voluntary compliance, or any similar
956 document, in any civil or administrative action involving
957 racketeering, fraud, theft, embezzlement, fraudulent conversion,
958 or misappropriation of property or the use of any untrue,
959 deceptive, or misleading representation or the use of any
960 unfair, unlawful, or deceptive trade practice;

961 (c) Is, or ever has been, subject to any litigation,
962 injunction, temporary restraining order, or final judgment or
963 order, including a stipulated judgment or order, an assurance of
964 voluntary compliance, or any similar document or any restrictive
965 court order relating to a business activity as the result of any
966 action brought by a governmental agency, including any action
967 affecting any license to do business or practice an occupation
968 or trade;

969 (d) Has at any time during the previous 7 years filed for
970 bankruptcy, been adjudged bankrupt, or been reorganized because
971 of insolvency; or

972 (e) Has been a principal, director, officer, or trustee
973 of, or a general or limited partner in, or had responsibilities
974 as a manager in, any corporation, partnership, joint venture, or
975 other entity that filed for bankruptcy, was adjudged bankrupt,



976 or was reorganized because of insolvency within 1 year after the
977 person held that position. The disclosures required in paragraph
978 (d) shall be applicable insofar as they relate to the applicant
979 ~~commercial telephone seller~~, as well as any affiliate ~~affiliated~~
980 ~~commercial seller~~ or salesperson.

981 Section 20. Subsections (3) and (4) of section 501.608,
982 Florida Statutes, are amended to read:

983 501.608 License or affidavit of exemption; occupational
984 license.—

985 (3) Failure to obtain or display a license or a receipt of
986 filing of an affidavit of exemption is sufficient grounds for
987 the department to issue an immediate cease and desist order,
988 which shall act as an immediate final order under s.
989 120.569(2)(n). The order shall remain in effect until the
990 commercial telephone seller, the entity providing substance
991 abuse marketing services, or a person claiming to be exempt
992 shows the authorities that he or she is properly licensed or
993 exempt. The department may order the business to cease
994 operations and shall order the phones to be shut off. Failure of
995 a salesperson to display a license or a receipt of filing of an
996 affidavit of exemption may result in the salesperson being
997 summarily ordered by the department to leave the office until he
998 or she can produce a license or a receipt of filing of an
999 affidavit of exemption for the department.

1000 (4) Any person applying for or renewing a local



1001 occupational license to engage in business as a commercial
 1002 telephone seller or as an entity providing substance abuse
 1003 marketing services must exhibit an active license or a copy of
 1004 the affidavit of exemption before the local occupational license
 1005 may be issued or reissued.

1006 Section 21. Subsection (1) of section 501.612, Florida
 1007 Statutes, is amended to read:

1008 501.612 Grounds for departmental action against licensure
 1009 applicants or licensees.—

1010 (1) The department may enter an order directing that one
 1011 or more of the actions set forth in subsection (2) be taken if
 1012 the department finds that a commercial telephone seller or
 1013 salesperson or an entity providing substance abuse marketing
 1014 services, or any person applying for licensure as a commercial
 1015 telephone seller or salesperson or an entity providing substance
 1016 abuse marketing services, including, but not limited to, owners,
 1017 operators, officers, directors, partners, or other individuals
 1018 engaged in the management activities of a business entity:

1019 (a) Has, regardless of adjudication, been convicted or
 1020 found guilty of, or has entered a plea of guilty or a plea of
 1021 nolo contendere to, racketeering or any offense involving fraud,
 1022 theft, embezzlement, fraudulent conversion, or misappropriation
 1023 of property, or any other crime involving moral turpitude;

1024 (b) Has, regardless of adjudication, been convicted or
 1025 found guilty of, or has entered a plea of guilty or a plea of



1026 | nolo contendere to, any felony;

1027 | (c) Has had entered against him or her or any business for
1028 | which he or she has worked or been affiliated, an injunction, a
1029 | temporary restraining order, or a final judgment or order,
1030 | including a stipulated judgment or order, an assurance of
1031 | voluntary compliance, or any similar document, in any civil or
1032 | administrative action involving racketeering, fraud, theft,
1033 | embezzlement, fraudulent conversion, or misappropriation of
1034 | property or the use of any untrue or misleading representation
1035 | in an attempt to sell or dispose of real or personal property or
1036 | the use of any unfair, unlawful, or deceptive trade practice;

1037 | (d) Is subject to or has worked or been affiliated with
1038 | any company which is, or ever has been, subject to any
1039 | injunction, temporary restraining order, or final judgment or
1040 | order, including a stipulated judgment or order, an assurance of
1041 | voluntary compliance, or any similar document, or any
1042 | restrictive court order relating to a business activity as the
1043 | result of any action brought by a governmental agency, including
1044 | any action affecting any license to do business or practice an
1045 | occupation or trade;

1046 | (e) Has at any time during the previous 7 years filed for
1047 | bankruptcy, been adjudged bankrupt, or been reorganized because
1048 | of insolvency;

1049 | (f) Has been a principal, director, officer, or trustee
1050 | of, or a general or limited partner in, or had responsibilities



1051 as a manager in, any corporation, partnership, joint venture, or
1052 other entity that filed the bankruptcy, was adjudged bankrupt,
1053 or was reorganized because of insolvency within 1 year after the
1054 person held that position;

1055 (g) Has been previously convicted of or found to have been
1056 acting as a salesperson or commercial telephone seller or an
1057 entity providing substance abuse marketing services without a
1058 license or whose licensure has previously been refused, revoked,
1059 or suspended in any jurisdiction;

1060 (h) Falsifies or willfully omits any material information
1061 asked for in any application, document, or record required to be
1062 submitted or retained under this part;

1063 (i) Makes a material false statement in response to any
1064 request or investigation by the department or the state
1065 attorney;

1066 (j) Refuses or fails, after notice, to produce any
1067 document or record or disclose any information required to be
1068 produced or disclosed under this part or the rules of the
1069 department;

1070 (k) Is not of good moral character; or

1071 (l) Otherwise violates or is operating in violation of any
1072 of the provisions of this part or of the rules adopted or orders
1073 issued thereunder.

1074 Section 22. Section 501.618, Florida Statutes, is amended
1075 to read:



1076 501.618 General civil remedies.—The department may bring:
1077 (1) An action to obtain a declaratory judgment that an act
1078 or practice violates the provisions of this part.
1079 (2) An action to enjoin a person who has violated, is
1080 violating, or is otherwise likely to violate the provisions of
1081 this part.
1082 (3) An action on behalf of one or more purchasers for the
1083 actual damages caused by an act or practice performed in
1084 violation of the provisions of this part. Such an action may
1085 include, but is not limited to, an action to recover against a
1086 bond, letter of credit, or certificate of deposit as otherwise
1087 provided in this part.
1088
1089 Upon motion of the enforcing authority in any action brought
1090 under this section, the court may make appropriate orders,
1091 including appointment of a general or special magistrate or
1092 receiver or sequestration of assets, to reimburse consumers
1093 found to have been damaged, to carry out a consumer transaction
1094 in accordance with the consumer's reasonable expectations, or to
1095 grant other appropriate relief. The court may assess the
1096 expenses of a general or special magistrate or receiver against
1097 a commercial telephone seller or an entity providing substance
1098 abuse marketing services. Any injunctive order, whether
1099 temporary or permanent, issued by the court shall be effective
1100 throughout the state unless otherwise provided in the order.



1101 Section 23. Section 817.0345, Florida Statutes, is created
1102 to read:

1103 817.0345 Prohibition of fraudulent marketing practices.—It
1104 is unlawful for any person to knowingly and willfully make a
1105 materially false or misleading statement or provide false or
1106 misleading information about the identity, products, goods,
1107 services, or geographical location of a licensed service
1108 provider, as defined in chapter 397, in marketing, advertising
1109 materials, or other media or on a website with the intent to
1110 induce another person to seek treatment with that service
1111 provider. A person who violates this section commits a felony of
1112 the third degree, punishable as provided in s. 775.082, s.
1113 775.083, or s. 775.084.

1114 Section 24. Subsections (1) and (4) of section 817.505,
1115 Florida Statutes, are amended to read:

1116 817.505 Patient brokering prohibited; exceptions;
1117 penalties.—

1118 (1) It is unlawful for any person, including any health
1119 care provider or health care facility, to:

1120 (a) Offer or pay a ~~any~~ commission, benefit, bonus, rebate,
1121 kickback, or bribe, directly or indirectly, in cash or in kind,
1122 or engage in any split-fee arrangement, in any form whatsoever,
1123 to induce the referral of a patient ~~patients~~ or patronage to or
1124 from a health care provider or health care facility;

1125 (b) Solicit or receive a ~~any~~ commission, benefit, bonus,



1126 rebate, kickback, or bribe, directly or indirectly, in cash or
1127 in kind, or engage in any split-fee arrangement, in any form
1128 whatsoever, in return for referring a patient ~~patients~~ or
1129 patronage to or from a health care provider or health care
1130 facility;

1131 (c) Solicit or receive a ~~any~~ commission, benefit, bonus,
1132 rebate, kickback, or bribe, directly or indirectly, in cash or
1133 in kind, or engage in any split-fee arrangement, in any form
1134 whatsoever, in return for the acceptance or acknowledgment of
1135 treatment from a health care provider or health care facility;
1136 or

1137 (d) Aid, abet, advise, or otherwise participate in the
1138 conduct prohibited under paragraph (a), paragraph (b), or
1139 paragraph (c).

1140 (4) (a) Any person, including an officer, partner, agent,
1141 attorney, or other representative of a firm, joint venture,
1142 partnership, business trust, syndicate, corporation, or other
1143 business entity, who violates any provision of this section
1144 commits a felony of the third degree, punishable as provided in
1145 s. 775.082, ~~s. 775.083~~, or s. 775.084, and shall be ordered to
1146 pay a fine of \$50,000.

1147 (b) Any person, including an officer, partner, agent,
1148 attorney, or other representative of a firm, joint venture,
1149 partnership, business trust, syndicate, corporation, or other
1150 business entity, who violates any provision of this section,



1151 where the prohibited conduct involves 10 or more patients but
1152 fewer than 20 patients, commits a felony of the second degree,
1153 punishable as provided in s. 775.082 or s. 775.084, and shall be
1154 ordered to pay a fine of \$100,000.

1155 (c) Any person, including an officer, partner, agent,
1156 attorney, or other representative of a firm, joint venture,
1157 partnership, business trust, syndicate, corporation, or other
1158 business entity, who violates any provision of this section,
1159 where the prohibited conduct involves 20 or more patients,
1160 commits a felony of the first degree, punishable as provided in
1161 s. 775.082 or s. 775.084, and shall be ordered to pay a fine of
1162 \$500,000.

1163 Section 25. Paragraph (a) of subsection (8) of section
1164 895.02, Florida Statutes, is amended to read:

1165 895.02 Definitions.—As used in ss. 895.01-895.08, the
1166 term:

1167 (8) "Racketeering activity" means to commit, to attempt to
1168 commit, to conspire to commit, or to solicit, coerce, or
1169 intimidate another person to commit:

1170 (a) Any crime that is chargeable by petition, indictment,
1171 or information under the following provisions of the Florida
1172 Statutes:

1173 1. Section 210.18, relating to evasion of payment of
1174 cigarette taxes.

1175 2. Section 316.1935, relating to fleeing or attempting to



1176 elude a law enforcement officer and aggravated fleeing or
1177 eluding.

1178 3. Section 403.727(3)(b), relating to environmental
1179 control.

1180 4. Section 409.920 or s. 409.9201, relating to Medicaid
1181 fraud.

1182 5. Section 414.39, relating to public assistance fraud.

1183 6. Section 440.105 or s. 440.106, relating to workers'
1184 compensation.

1185 7. Section 443.071(4), relating to creation of a
1186 fictitious employer scheme to commit reemployment assistance
1187 fraud.

1188 8. Section 465.0161, relating to distribution of medicinal
1189 drugs without a permit as an Internet pharmacy.

1190 9. Section 499.0051, relating to crimes involving
1191 contraband, adulterated, or misbranded drugs.

1192 10. Part IV of chapter 501, relating to telemarketing.

1193 11. Chapter 517, relating to sale of securities and
1194 investor protection.

1195 12. Section 550.235 or s. 550.3551, relating to dogracing
1196 and horseracing.

1197 13. Chapter 550, relating to jai alai frontons.

1198 14. Section 551.109, relating to slot machine gaming.

1199 15. Chapter 552, relating to the manufacture,
1200 distribution, and use of explosives.



- 1201 16. Chapter 560, relating to money transmitters, if the
1202 violation is punishable as a felony.
- 1203 17. Chapter 562, relating to beverage law enforcement.
- 1204 18. Section 624.401, relating to transacting insurance
1205 without a certificate of authority, s. 624.437(4)(c)1., relating
1206 to operating an unauthorized multiple-employer welfare
1207 arrangement, or s. 626.902(1)(b), relating to representing or
1208 aiding an unauthorized insurer.
- 1209 19. Section 655.50, relating to reports of currency
1210 transactions, when such violation is punishable as a felony.
- 1211 20. Chapter 687, relating to interest and usurious
1212 practices.
- 1213 21. Section 721.08, s. 721.09, or s. 721.13, relating to
1214 real estate timeshare plans.
- 1215 22. Section 775.13(5)(b), relating to registration of
1216 persons found to have committed any offense for the purpose of
1217 benefiting, promoting, or furthering the interests of a criminal
1218 gang.
- 1219 23. Section 777.03, relating to commission of crimes by
1220 accessories after the fact.
- 1221 24. Chapter 782, relating to homicide.
- 1222 25. Chapter 784, relating to assault and battery.
- 1223 26. Chapter 787, relating to kidnapping or human
1224 trafficking.
- 1225 27. Chapter 790, relating to weapons and firearms.



- 1226 28. Chapter 794, relating to sexual battery, but only if
1227 such crime was committed with the intent to benefit, promote, or
1228 further the interests of a criminal gang, or for the purpose of
1229 increasing a criminal gang member's own standing or position
1230 within a criminal gang.
- 1231 29. Former s. 796.03, former s. 796.035, s. 796.04, s.
1232 796.05, or s. 796.07, relating to prostitution.
- 1233 30. Chapter 806, relating to arson and criminal mischief.
- 1234 31. Chapter 810, relating to burglary and trespass.
- 1235 32. Chapter 812, relating to theft, robbery, and related
1236 crimes.
- 1237 33. Chapter 815, relating to computer-related crimes.
- 1238 34. Chapter 817, relating to fraudulent practices, false
1239 pretenses, fraud generally, ~~and~~ credit card crimes, and patient
1240 brokering.
- 1241 35. Chapter 825, relating to abuse, neglect, or
1242 exploitation of an elderly person or disabled adult.
- 1243 36. Section 827.071, relating to commercial sexual
1244 exploitation of children.
- 1245 37. Section 828.122, relating to fighting or baiting
1246 animals.
- 1247 38. Chapter 831, relating to forgery and counterfeiting.
- 1248 39. Chapter 832, relating to issuance of worthless checks
1249 and drafts.
- 1250 40. Section 836.05, relating to extortion.



- 1251 41. Chapter 837, relating to perjury.
- 1252 42. Chapter 838, relating to bribery and misuse of public
1253 office.
- 1254 43. Chapter 843, relating to obstruction of justice.
- 1255 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
1256 s. 847.07, relating to obscene literature and profanity.
- 1257 45. Chapter 849, relating to gambling, lottery, gambling
1258 or gaming devices, slot machines, or any of the provisions
1259 within that chapter.
- 1260 46. Chapter 874, relating to criminal gangs.
- 1261 47. Chapter 893, relating to drug abuse prevention and
1262 control.
- 1263 48. Chapter 896, relating to offenses related to financial
1264 transactions.
- 1265 49. Sections 914.22 and 914.23, relating to tampering with
1266 or harassing a witness, victim, or informant, and retaliation
1267 against a witness, victim, or informant.
- 1268 50. Sections 918.12 and 918.13, relating to tampering with
1269 jurors and evidence.
- 1270 Section 26. Paragraphs (c), (d), (f), and (h) of
1271 subsection (3) of section 921.0022, Florida Statutes, are
1272 amended to read:
- 1273 921.0022 Criminal Punishment Code; offense severity
1274 ranking chart.—
- 1275 (3) OFFENSE SEVERITY RANKING CHART



1276	(c)	LEVEL 3	
1277	Florida	Felony	
	Statute	Degree	Description
1278	119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
1279	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
1280	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
1281	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
1282	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
1283	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or



1284			mobile home.
	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
1285			
	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
1286			
	327.35 (2) (b)	3rd	Felony BUI.
1287			
	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
1288			
	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
1289			
	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
1290			



1291	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
1292	379.2431 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
1293	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
1294	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
1294	440.1051 (3)	3rd	False report of workers'



			compensation fraud or retaliation for making such a report.
1295	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
1296	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
1297	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
1298	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
1299	697.08	3rd	Equity skimming.
1300	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.



1301	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
1302	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
1303	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
1304	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
1305	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
1306	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
1307	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud



1308			(Florida Communications Fraud Act), property valued at less than \$20,000.
1309	817.233	3rd	Burning to defraud insurer.
1310	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
1311	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
1312	817.236	3rd	Filing a false motor vehicle insurance application.
1313	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
1314	817.413 (2)	3rd	Sale of used goods as new.
1315	817.505 (4)	3rd	Patient brokering.



1316	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
1317	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
1318	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
1319	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
1320	843.19	3rd	Injure, disable, or kill police dog or horse.
1321	860.15 (3)	3rd	Overcharging for repairs and parts.
1322	870.01 (2)	3rd	Riot; inciting or encouraging.



1323	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
1324	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
1325	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
1325	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled



1326			substances.
	893.13 (6) (a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
1327			
	893.13 (7) (a) 8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
1328			
	893.13 (7) (a) 9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
1329			
	893.13 (7) (a) 10.	3rd	Affix false or forged label to package of controlled substance.
1330			
	893.13 (7) (a) 11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
1331			



- 1332
893.13 (8) (a) 1.
3rd
Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
- 1333
893.13 (8) (a) 2.
3rd
Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
- 1334
893.13 (8) (a) 3.
3rd
Knowingly write a prescription for a controlled substance for a fictitious person.
- 1334
893.13 (8) (a) 4.
3rd
Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a



1335			monetary benefit for the practitioner.
1336	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
1337	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
1338	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
1339	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
1340	(d) LEVEL 4		
1341	Florida	Felony	
1342	Statute	Degree	Description
	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety



			while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1343	499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
1344	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
1345	517.07 (1)	3rd	Failure to register securities.
1346	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
1347	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
1348	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.



1349	784.075	3rd	Battery on detention or commitment facility staff.
1350	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1351	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
1352	784.081 (3)	3rd	Battery on specified official or employee.
1353	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1354	784.083 (3)	3rd	Battery on code inspector.
1355	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1356	787.03 (1)	3rd	Interference with custody;



			wrongly takes minor from appointed guardian.
1357	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
1358	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
1359	787.07	3rd	Human smuggling.
1360	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1361	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1362	790.115 (2) (c)	3rd	Possessing firearm on school



			property.
1363	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1364	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1365	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
1366	810.06	3rd	Burglary; possession of tools.
1367	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1368	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1369	812.014	3rd	Grand theft, 3rd degree, a



1370	(2) (c) 4.-10.		will, firearm, motor vehicle, livestock, etc.
1371	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1372	<u>817.505 (4) (a)</u>	<u>3rd</u>	<u>Patient brokering.</u>
1373	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
1374	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
1375	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
1376	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.



1377	837.02 (1)	3rd	Perjury in official proceedings.
1378	837.021 (1)	3rd	Make contradictory statements in official proceedings.
1379	838.022	3rd	Official misconduct.
1380	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
1381	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
1382	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1383	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.



1384	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1385	847.0135 (5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
1386	874.05 (1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
1387	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03 (1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
1388	914.14 (2)	3rd	Witnesses accepting bribes.
1389	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.



1390	918.12	3rd	Tampering with jurors.
1391	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
1392			
1393	(f) LEVEL 6		
1394			
	Florida Statute	Felony Degree	Description
1395	316.027 (2) (b)	2nd	Leaving the scene of a crash involving serious bodily injury.
1396	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
1397	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
1398	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction



			information, or transaction statement.
1399	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
1400	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
1401	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
1402	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
1403	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
1404	784.041	3rd	Felony battery; domestic battery by strangulation.
1405	784.048 (3)	3rd	Aggravated stalking; credible threat.



1406	784.048 (5)	3rd	Aggravated stalking of person under 16.
1407	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
1408	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
1409	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
1410	784.081 (2)	2nd	Aggravated assault on specified official or employee.
1411	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
1412	784.083 (2)	2nd	Aggravated assault on code inspector.
1413	787.02 (2)	3rd	False imprisonment; restraining



			with purpose other than those in s. 787.01.
1414	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
1415	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
1416	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
1417	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
1418	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.



1419	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
1420	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
1421	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
1422	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
1423	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
1424	810.145 (8) (b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
1425	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or



1426			more, but less than \$100,000, grand theft in 2nd degree.
	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
1427			
	812.015 (9) (a)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
1428			
	812.015 (9) (b)	2nd	Retail theft; property stolen \$3,000 or more; coordination of others.
1429			
	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
1430			
	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
1431			
	<u>817.505 (4) (b)</u>	<u>2nd</u>	<u>Patient brokering; 10 or more patients.</u>
1432			



1433	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
1434	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
1435	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
1436	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
1437	827.03 (2) (c)	3rd	Abuse of a child.
1438	827.03 (2) (d)	3rd	Neglect of a child.
1439	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
1440	836.05	2nd	Threats; extortion.
	836.10	2nd	Written threats to kill or do



1441			bodily injury.
1442	843.12	3rd	Aids or assists person to escape.
1443	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
1444	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
1445	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
1446	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate



1447			or offender on community supervision, resulting in great bodily harm.
1448	944.40	2nd	Escapes.
1449	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
1450	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
1451	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
1452	(h) LEVEL 8		
1453	Florida Statute	Felony Degree	Description
1454	316.193	2nd	DUI manslaughter.
1455	(3)(c)3.a.		



1456	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
1457	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
1458	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
1459	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
1460	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
1461	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.



1462	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
1463	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
1464	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
1465	782.051 (2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04 (3).
	782.071 (1) (b)	1st	Committing vehicular homicide



			and failing to render aid or give information.
1466	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give information.
1467	787.06 (3) (a) 1.	1st	Human trafficking for labor and services of a child.
1468	787.06 (3) (b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
1469	787.06 (3) (c) 2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
1470	787.06 (3) (e) 1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
1471	787.06 (3) (f) 2.	1st	Human trafficking using



1472	790.161 (3)	1st	coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.
1473	794.011 (5) (a)	1st	Discharging a destructive device which results in bodily harm or property damage.
1474	794.011 (5) (b)	2nd	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
1475	794.011 (5) (c)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
			Sexual battery; victim 12 years of age or older; offender



1476	794.011(5)(d)	1st	younger than 18 years; offender does not use physical force likely to cause injury.
1477	794.08(3)	2nd	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
1478	800.04(4)(b)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
1479	800.04(4)(c)	1st	Lewd or lascivious battery.
1480	806.01(1)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
			Maliciously damage dwelling or structure by fire or explosive,



1481			believing person in structure.
1482	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
1483	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
1484	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
1485	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
1486	812.13 (2) (b)	1st	Robbery with a weapon.
1487	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
	<u>817.505 (4) (c)</u>	<u>1st</u>	<u>Patient brokering; 20 or more patients.</u>



1488	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
1489	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
1490	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
1491	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
1492	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.



1493	817.611 (2) (c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
1494	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
1495	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
1496	825.103 (3) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
1497	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
1498	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
1499			



1500	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
1501	860.16	1st	Aircraft piracy.
1502	893.13 (1) (b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b) .
1503	893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b) .
1504	893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b) .
1505	893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
	893.135	1st	Trafficking in cocaine, more



1506	(1) (b) 1.b.		than 200 grams, less than 400 grams.
1507	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1508	893.135 (1) (c) 2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
1509	893.135 (1) (c) 3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
1510	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
1511	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than



1512	893.135 (1) (g) 1.b.	1st	200 grams. Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
1513	893.135 (1) (h) 1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
1514	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
1515	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
1516	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
1517	895.03(1)	1st	Use or invest proceeds derived



1518	895.03(2)	1st	from pattern of racketeering activity.
1519	895.03(3)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
1520	896.101(5)(b)	2nd	Conduct or participate in any enterprise through pattern of racketeering activity.
1521	896.104(4)(a)2.	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
1522			Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
1523	Section 27. Paragraph (e) of subsection (5) of section		



1524 212.055, Florida Statutes, is amended to read:

1525 212.055 Discretionary sales surtaxes; legislative intent;
1526 authorization and use of proceeds.—It is the legislative intent
1527 that any authorization for imposition of a discretionary sales
1528 surtax shall be published in the Florida Statutes as a
1529 subsection of this section, irrespective of the duration of the
1530 levy. Each enactment shall specify the types of counties
1531 authorized to levy; the rate or rates which may be imposed; the
1532 maximum length of time the surtax may be imposed, if any; the
1533 procedure which must be followed to secure voter approval, if
1534 required; the purpose for which the proceeds may be expended;
1535 and such other requirements as the Legislature may provide.
1536 Taxable transactions and administrative procedures shall be as
1537 provided in s. 212.054.

1538 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined
1539 in s. 125.011(1) may levy the surtax authorized in this
1540 subsection pursuant to an ordinance either approved by
1541 extraordinary vote of the county commission or conditioned to
1542 take effect only upon approval by a majority vote of the
1543 electors of the county voting in a referendum. In a county as
1544 defined in s. 125.011(1), for the purposes of this subsection,
1545 "county public general hospital" means a general hospital as
1546 defined in s. 395.002 which is owned, operated, maintained, or
1547 governed by the county or its agency, authority, or public
1548 health trust.



1549 (e) A governing board, agency, or authority shall be
1550 chartered by the county commission upon this act becoming law.
1551 The governing board, agency, or authority shall adopt and
1552 implement a health care plan for indigent health care services.
1553 The governing board, agency, or authority shall consist of no
1554 more than seven and no fewer than five members appointed by the
1555 county commission. The members of the governing board, agency,
1556 or authority shall be at least 18 years of age and residents of
1557 the county. No member may be employed by or affiliated with a
1558 health care provider or the public health trust, agency, or
1559 authority responsible for the county public general hospital.
1560 The following community organizations shall each appoint a
1561 representative to a nominating committee: the South Florida
1562 Hospital and Healthcare Association, the Miami-Dade County
1563 Public Health Trust, the Dade County Medical Association, the
1564 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
1565 County. This committee shall nominate between 10 and 14 county
1566 citizens for the governing board, agency, or authority. The
1567 slate shall be presented to the county commission and the county
1568 commission shall confirm the top five to seven nominees,
1569 depending on the size of the governing board. Until such time as
1570 the governing board, agency, or authority is created, the funds
1571 provided for in subparagraph (d)2. shall be placed in a
1572 restricted account set aside from other county funds and not
1573 disbursed by the county for any other purpose.



1574 1. The plan shall divide the county into a minimum of four
1575 and maximum of six service areas, with no more than one
1576 participant hospital per service area. The county public general
1577 hospital shall be designated as the provider for one of the
1578 service areas. Services shall be provided through participants'
1579 primary acute care facilities.

1580 2. The plan and subsequent amendments to it shall fund a
1581 defined range of health care services for both indigent persons
1582 and the medically poor, including primary care, preventive care,
1583 hospital emergency room care, and hospital care necessary to
1584 stabilize the patient. For the purposes of this section,
1585 "stabilization" means stabilization as defined in s. 397.311(45)
1586 ~~397.311(44)~~. Where consistent with these objectives, the plan
1587 may include services rendered by physicians, clinics, community
1588 hospitals, and alternative delivery sites, as well as at least
1589 one regional referral hospital per service area. The plan shall
1590 provide that agreements negotiated between the governing board,
1591 agency, or authority and providers shall recognize hospitals
1592 that render a disproportionate share of indigent care, provide
1593 other incentives to promote the delivery of charity care to draw
1594 down federal funds where appropriate, and require cost
1595 containment, including, but not limited to, case management.
1596 From the funds specified in subparagraphs (d)1. and 2. for
1597 indigent health care services, service providers shall receive
1598 reimbursement at a Medicaid rate to be determined by the



1599 governing board, agency, or authority created pursuant to this
1600 paragraph for the initial emergency room visit, and a per-member
1601 per-month fee or capitation for those members enrolled in their
1602 service area, as compensation for the services rendered
1603 following the initial emergency visit. Except for provisions of
1604 emergency services, upon determination of eligibility,
1605 enrollment shall be deemed to have occurred at the time services
1606 were rendered. The provisions for specific reimbursement of
1607 emergency services shall be repealed on July 1, 2001, unless
1608 otherwise reenacted by the Legislature. The capitation amount or
1609 rate shall be determined before program implementation by an
1610 independent actuarial consultant. In no event shall such
1611 reimbursement rates exceed the Medicaid rate. The plan must also
1612 provide that any hospitals owned and operated by government
1613 entities on or after the effective date of this act must, as a
1614 condition of receiving funds under this subsection, afford
1615 public access equal to that provided under s. 286.011 as to any
1616 meeting of the governing board, agency, or authority the subject
1617 of which is budgeting resources for the retention of charity
1618 care, as that term is defined in the rules of the Agency for
1619 Health Care Administration. The plan shall also include
1620 innovative health care programs that provide cost-effective
1621 alternatives to traditional methods of service and delivery
1622 funding.

1623 3. The plan's benefits shall be made available to all



1624 county residents currently eligible to receive health care
1625 services as indigents or medically poor as defined in paragraph
1626 (4) (d).

1627 4. Eligible residents who participate in the health care
1628 plan shall receive coverage for a period of 12 months or the
1629 period extending from the time of enrollment to the end of the
1630 current fiscal year, per enrollment period, whichever is less.

1631 5. At the end of each fiscal year, the governing board,
1632 agency, or authority shall prepare an audit that reviews the
1633 budget of the plan, delivery of services, and quality of
1634 services, and makes recommendations to increase the plan's
1635 efficiency. The audit shall take into account participant
1636 hospital satisfaction with the plan and assess the amount of
1637 poststabilization patient transfers requested, and accepted or
1638 denied, by the county public general hospital.

1639 Section 28. Paragraph (e) of subsection (2) of section
1640 394.4573, Florida Statutes, is amended to read:

1641 394.4573 Coordinated system of care; annual assessment;
1642 essential elements; measures of performance; system improvement
1643 grants; reports.—On or before December 1 of each year, the
1644 department shall submit to the Governor, the President of the
1645 Senate, and the Speaker of the House of Representatives an
1646 assessment of the behavioral health services in this state. The
1647 assessment shall consider, at a minimum, the extent to which
1648 designated receiving systems function as no-wrong-door models,



1649 the availability of treatment and recovery services that use
1650 recovery-oriented and peer-involved approaches, the availability
1651 of less-restrictive services, and the use of evidence-informed
1652 practices. The department's assessment shall consider, at a
1653 minimum, the needs assessments conducted by the managing
1654 entities pursuant to s. 394.9082(5). Beginning in 2017, the
1655 department shall compile and include in the report all plans
1656 submitted by managing entities pursuant to s. 394.9082(8) and
1657 the department's evaluation of each plan.

1658 (2) The essential elements of a coordinated system of care
1659 include:

1660 (e) Case management. Each case manager or person directly
1661 supervising a case manager who provides Medicaid-funded targeted
1662 case management services shall hold a valid certification from a
1663 department-approved credentialing entity as defined in s.
1664 397.311(10) ~~397.311(9)~~ by July 1, 2017, and, thereafter, within
1665 6 months after hire.

1666 Section 29. Subsection (6) of section 394.9085, Florida
1667 Statutes, is amended to read:

1668 394.9085 Behavioral provider liability.—

1669 (6) For purposes of this section, the terms
1670 "detoxification services," "addictions receiving facility," and
1671 "receiving facility" have the same meanings as those provided in
1672 ss. 397.311(26)(a)4. ~~397.311(25)(a)4.~~, 397.311(26)(a)1.
1673 ~~397.311(25)(a)1.~~, and 394.455(39), respectively.



1674 Section 30. Section 397.416, Florida Statutes, is amended
1675 to read:

1676 397.416 Substance abuse treatment services; qualified
1677 professional.—Notwithstanding any other provision of law, a
1678 person who was certified through a certification process
1679 recognized by the former Department of Health and Rehabilitative
1680 Services before January 1, 1995, may perform the duties of a
1681 qualified professional with respect to substance abuse treatment
1682 services as defined in this chapter, and need not meet the
1683 certification requirements contained in s. 397.311(34)
1684 ~~397.311(33)~~.

1685 Section 31. Subsection (3) of section 397.753, Florida
1686 Statutes, is amended to read:

1687 397.753 Definitions.—As used in this part:

1688 (3) "Inmate substance abuse services" means any service
1689 component as defined in s. 397.311 provided directly by the
1690 Department of Corrections and licensed and regulated by the
1691 Department of Children and Families pursuant to s. 397.4014
1692 ~~397.406~~, or provided through contractual arrangements with a
1693 service provider licensed pursuant to part II; or any self-help
1694 program or volunteer support group operating for inmates.

1695 Section 32. Section 409.1757, Florida Statutes, is amended
1696 to read:

1697 409.1757 Persons not required to be refingerprinted or
1698 rescreened.—Any law to the contrary notwithstanding, human



1699 resource personnel who have been fingerprinted or screened
1700 pursuant to chapters 393, 394, 397, 402, and this chapter,
1701 teachers who have been fingerprinted pursuant to chapter 1012,
1702 and law enforcement officers who meet the requirements of s.
1703 943.13, who have not been unemployed for more than 90 days
1704 thereafter, and who under the penalty of perjury attest to the
1705 completion of such fingerprinting or screening and to compliance
1706 with this section and the standards for good moral character as
1707 contained in such provisions as ss. 110.1127(2)(c), 393.0655(1),
1708 394.457(6), 397.4073 ~~397.451~~, 402.305(2), 409.175(6), and
1709 943.13(7), are not required to be refingerprinted or rescreened
1710 in order to comply with any caretaker screening or
1711 fingerprinting requirements.

1712 Section 33. Paragraphs (d) and (g) of subsection (1) of
1713 section 440.102, Florida Statutes, are amended to read:

1714 440.102 Drug-free workplace program requirements.—The
1715 following provisions apply to a drug-free workplace program
1716 implemented pursuant to law or to rules adopted by the Agency
1717 for Health Care Administration:

1718 (1) DEFINITIONS.—Except where the context otherwise
1719 requires, as used in this act:

1720 (d) "Drug rehabilitation program" means a service
1721 provider, established pursuant to s. 397.311(43) ~~397.311(42)~~,
1722 that provides confidential, timely, and expert identification,
1723 assessment, and resolution of employee drug abuse.



1724 (g) "Employee assistance program" means an established
1725 program capable of providing expert assessment of employee
1726 personal concerns; confidential and timely identification
1727 services with regard to employee drug abuse; referrals of
1728 employees for appropriate diagnosis, treatment, and assistance;
1729 and followup services for employees who participate in the
1730 program or require monitoring after returning to work. If, in
1731 addition to the above activities, an employee assistance program
1732 provides diagnostic and treatment services, these services shall
1733 in all cases be provided by service providers pursuant to s.
1734 397.311(43) ~~397.311(42)~~.

1735 Section 34. Paragraph (e) of subsection (4) of section
1736 985.045, Florida Statutes, is amended to read:

1737 985.045 Court records.—

1738 (4) A court record of proceedings under this chapter is
1739 not admissible in evidence in any other civil or criminal
1740 proceeding, except that:

1741 (e) Records of proceedings under this chapter may be used
1742 to prove disqualification under ss. 110.1127, 393.0655, 394.457,
1743 397.4073 ~~397.451~~, 402.305, 402.313, 409.175, 409.176, and
1744 985.644.

1745 Section 35. This act shall take effect July 1, 2017.