

By the Committee on Children, Families, and Elder Affairs; and  
Senator Rouson

586-02488-19

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1                                   A bill to be entitled  
2           An act relating to mental health and substance use  
3           disorders; amending s. 394.455, F.S.; defining the  
4           term "peer specialist"; amending s. 394.4572, F.S.;  
5           requiring a specific level of screening for peer  
6           specialists working in mental health programs and  
7           facilities; amending s. 394.4573, F.S.; specifying  
8           that the use of peer specialists for recovery support  
9           is an essential element of a coordinated system of  
10          behavioral health care; amending s. 397.311, F.S.;  
11          defining the term "peer specialist"; amending s.  
12          397.4073, F.S.; conforming provisions to changes made  
13          by the act; creating s. 397.417, F.S.; providing  
14          legislative findings and intent; authorizing a person  
15          to seek certification as a peer specialist if he or  
16          she meets specified qualifications; requiring a  
17          background screening, completion of a training  
18          program, and a passing score on a competency exam for  
19          a qualified person to obtain certification as a peer  
20          specialist; requiring the Department of Children and  
21          Families to develop a training program for peer  
22          specialists and to give preference to trainers who are  
23          certified peer specialists; requiring the training  
24          program to coincide with a competency exam and to be  
25          based on current practice standards; requiring the  
26          department to certify peer specialists directly or by  
27          designating a nonprofit certification organization;  
28          requiring that a person providing peer specialist  
29          services be certified or supervised by a licensed

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30 behavioral health care professional or a certified  
31 peer specialist; authorizing the department, a  
32 behavioral health managing entity, or the Medicaid  
33 program to reimburse a peer specialist service as a  
34 recovery service; encouraging Medicaid managed care  
35 plans to use peer specialists in providing recovery  
36 services; requiring peer specialists to meet the  
37 requirements of a background screening as a condition  
38 of employment and continued employment; requiring the  
39 department to forward fingerprints to the Department  
40 of Law Enforcement; requiring that fees for state and  
41 federal fingerprint processing be borne by the peer  
42 specialist applying for employment; providing that any  
43 arrest record identified through background screening  
44 be forwarded to the department; authorizing the  
45 Department of Children and Families or the agency to  
46 contract with certain vendors for fingerprinting;  
47 specifying requirements for vendors; specifying  
48 offenses to be considered in the background screening  
49 of a peer specialist; authorizing a person who does  
50 not meet background screening requirements to request  
51 an exemption from disqualification from the department  
52 or the agency; providing that all peer specialists  
53 certified as of the effective date of this act are  
54 recognized as having met the requirements of this act;  
55 amending s. 397.487, F.S.; revising legislative  
56 findings relating to voluntary certification of  
57 recovery residences; requiring recovery residences to  
58 comply with specified Florida Fire Prevention Code

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59 provisions; revising background screening requirements  
60 for owners, directors, and chief financial officers of  
61 recovery residences; amending s. 397.4873, F.S.;  
62 providing exceptions to limitations on referrals by  
63 recovery residences to licensed service providers;  
64 prohibiting recovery residences and specified  
65 affiliated individuals from benefiting from certain  
66 referrals; amending s. 435.07, F.S.; authorizing the  
67 exemption of certain persons from disqualification  
68 from employment; amending ss. 212.055, 394.495,  
69 394.496, 394.9085, 397.416, 409.972, 440.102, 464.012,  
70 and 744.2007, F.S.; conforming cross-references;  
71 making technical changes; providing an effective date.

72

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

74

75 Section 1. Present subsections (32) through (48) of section  
76 394.455, Florida Statutes, are redesignated as subsections (33)  
77 through (49), respectively, and a new subsection (32) is added  
78 to that section, to read:

79 394.455 Definitions.—As used in this part, the term:

80 (32) "Peer specialist" means a person who has been in  
81 recovery from a substance use disorder or mental illness for the  
82 past 2 years or a family member or caregiver of a person with a  
83 substance use disorder or mental illness and who is certified  
84 under s. 397.417.

85 Section 2. Paragraph (a) of subsection (1) of section  
86 394.4572, Florida Statutes, is amended to read:

87 394.4572 Screening of mental health personnel.—

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88 (1) (a) The department and the Agency for Health Care  
89 Administration shall require level 2 background screening  
90 pursuant to chapter 435 for mental health personnel. "Mental  
91 health personnel" includes all program directors, professional  
92 clinicians, staff members, and volunteers working in public or  
93 private mental health programs and facilities who have direct  
94 contact with individuals held for examination or admitted for  
95 mental health treatment. For purposes of this chapter,  
96 employment screening of mental health personnel also includes,  
97 but is not limited to, employment screening as provided under  
98 chapter 435 and s. 408.809. The department and the Agency for  
99 Health Care Administration shall require a level 2 background  
100 screening pursuant to s. 397.417(5) for persons working as peer  
101 specialists in public or private mental health programs or  
102 facilities and who have direct contact with individuals held for  
103 involuntary examination or admitted for mental health treatment.

104 Section 3. Paragraph (1) of subsection (2) of section  
105 394.4573, Florida Statutes, is amended to read:

106 394.4573 Coordinated system of care; annual assessment;  
107 essential elements; measures of performance; system improvement  
108 grants; reports.—On or before December 1 of each year, the  
109 department shall submit to the Governor, the President of the  
110 Senate, and the Speaker of the House of Representatives an  
111 assessment of the behavioral health services in this state. The  
112 assessment shall consider, at a minimum, the extent to which  
113 designated receiving systems function as no-wrong-door models,  
114 the availability of treatment and recovery services that use  
115 recovery-oriented and peer-involved approaches, the availability  
116 of less-restrictive services, and the use of evidence-informed

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117 practices. The department's assessment shall consider, at a  
118 minimum, the needs assessments conducted by the managing  
119 entities pursuant to s. 394.9082(5). Beginning in 2017, the  
120 department shall compile and include in the report all plans  
121 submitted by managing entities pursuant to s. 394.9082(8) and  
122 the department's evaluation of each plan.

123 (2) The essential elements of a coordinated system of care  
124 include:

125 (1) Recovery support, including, but not limited to, the  
126 use of peer specialists as described in s. 397.417 to assist in  
127 the individual's recovery from a substance use disorder or  
128 mental illness, support for competitive employment, educational  
129 attainment, independent living skills development, family  
130 support and education, wellness management and self-care, and  
131 assistance in obtaining housing that meets the individual's  
132 needs. Such housing may include mental health residential  
133 treatment facilities, limited mental health assisted living  
134 facilities, adult family care homes, and supportive housing.  
135 Housing provided using state funds must provide a safe and  
136 decent environment free from abuse and neglect.

137 Section 4. Present subsections (30) through (49) of section  
138 397.311, Florida Statutes, are redesignated as subsections (31)  
139 through (50), respectively, and a new subsection (30) is added  
140 to that section, to read:

141 397.311 Definitions.—As used in this chapter, except part  
142 VIII, the term:

143 (30) "Peer specialist" means a person who has been in  
144 recovery from a substance use disorder or mental illness for the  
145 past 2 years or a family member or caregiver of a person with a

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146 substance use disorder or mental illness and who is certified  
147 under s. 397.417.

148 Section 5. Paragraph (f) of subsection (1) and paragraphs  
149 (b) and (c) of subsection (4) of section 397.4073, Florida  
150 Statutes, are amended to read:

151 397.4073 Background checks of service provider personnel.—

152 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND  
153 EXCEPTIONS.—

154 (f) Service provider personnel who request an exemption  
155 from disqualification must submit the request within 30 days  
156 after being notified of the disqualification. If 5 years or more  
157 have elapsed since the most recent disqualifying offense,  
158 service provider personnel may work with adults with mental  
159 health or substance use disorders or co-occurring disorders  
160 under the supervision of a qualified professional licensed under  
161 chapter 490 or chapter 491 or a master's-level-certified  
162 addictions professional until the agency makes a final  
163 determination regarding the request for an exemption from  
164 disqualification.

165 (4) EXEMPTIONS FROM DISQUALIFICATION.—

166 (b) ~~Since rehabilitated substance abuse impaired persons~~  
167 ~~are effective in the successful treatment and rehabilitation of~~  
168 ~~individuals with substance use disorders, for service providers~~  
169 ~~which treat adolescents 13 years of age and older, service~~  
170 ~~provider personnel whose background checks indicate crimes under~~  
171 ~~s. 817.563, s. 893.13, or s. 893.147 may be exempted from~~  
172 ~~disqualification from employment pursuant to this paragraph.~~

173 ~~(c)~~ The department may grant exemptions from  
174 disqualification which would limit service provider personnel to

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175 working with adults in substance use disorder ~~abuse~~ treatment  
176 facilities.

177 Section 6. Section 397.417, Florida Statutes, is created to  
178 read:

179 397.417 Behavioral health peer specialists.-

180 (1) LEGISLATIVE FINDINGS AND INTENT.-

181 (a) The Legislature finds that:

182 1. The ability to provide adequate behavioral health  
183 services is limited by a shortage of professionals and  
184 paraprofessionals.

185 2. The state is experiencing an increase in opioid  
186 addictions, which prove fatal to persons in many cases.

187 3. Peer specialists provide effective support services  
188 because they share common life experiences with the persons they  
189 assist.

190 4. Peer specialists promote a sense of community among  
191 those in recovery.

192 5. Research has shown that peer support facilitates  
193 recovery and reduces health care costs.

194 6. Peer specialists may have a criminal history that  
195 prevents them from meeting background screening requirements.

196 (b) The Legislature intends to expand the use of peer  
197 specialists as a cost-effective means of providing services by  
198 ensuring that peer specialists meet specified qualifications,  
199 meet modified background screening requirements, and are  
200 adequately reimbursed for their services.

201 (2) QUALIFICATIONS.-

202 (a) A person may seek certification as a peer specialist if  
203 he or she has been in recovery from a substance use disorder or

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204 mental illness for the past 2 years or if he or she is a family  
205 member or caregiver of a person with a substance use disorder or  
206 mental illness.

207 (b) To obtain certification as a peer specialist, a person  
208 must meet the background screening requirements of subsection  
209 (5), complete the training program, and achieve a passing score  
210 on the competency exam described in paragraph (3) (a).

211 (3) DUTIES OF THE DEPARTMENT.—

212 (a) The department shall develop a training program for  
213 persons seeking certification as peer specialists. The  
214 department must give preference to trainers who are certified  
215 peer specialists. The training program must coincide with a  
216 competency exam and be based on current practice standards.

217 (b) The department shall certify peer specialists. The  
218 department may certify peer specialists directly or may  
219 designate a private, nonprofit certification organization to  
220 certify peer specialists, implement the training program, and  
221 administer the competency exam.

222 (c) The department must require that a person providing  
223 peer specialist services be certified or be supervised by a  
224 licensed behavioral health care professional or a certified peer  
225 specialist.

226 (4) PAYMENT.—Peer specialist services may be reimbursed as  
227 a recovery service through the department, a behavioral health  
228 managing entity, or the Medicaid program. Medicaid managed care  
229 plans are encouraged to use peer specialists in providing  
230 recovery services.

231 (5) BACKGROUND SCREENING.—

232 (a) A peer specialist must have completed or have been



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233 lawfully released from confinement, supervision, or any  
234 nonmonetary condition imposed by the court for any felony and  
235 must undergo a background screening as a condition of employment  
236 and continued employment. The applicant must submit a full set  
237 of fingerprints to the department or to a vendor, entity, or  
238 agency authorized by s. 943.053(13). The department, vendor,  
239 entity, or agency shall forward the fingerprints to the  
240 Department of Law Enforcement for state processing and the  
241 Department of Law Enforcement shall forward the fingerprints to  
242 the Federal Bureau of Investigation for national processing.  
243 Fees for state and federal fingerprint processing and retention  
244 shall be borne by the applicant. The state cost for fingerprint  
245 processing shall be as provided in s. 943.053(3)(e) for records  
246 provided to persons or entities other than those specified as  
247 exceptions therein. Fingerprints submitted to the Department of  
248 Law Enforcement pursuant to this paragraph shall be retained as  
249 provided by s. 435.12 and, when the Department of Law  
250 Enforcement begins participation in the program, enrolled in the  
251 Federal Bureau of Investigation's national retained fingerprint  
252 arrest notification program, as provided in s. 943.05(4). Any  
253 arrest record identified shall be reported to the department.

254 (c) The department or the Agency for Health Care  
255 Administration, as applicable, may contract with one or more  
256 vendors to perform all or part of the electronic fingerprinting  
257 pursuant to this section. Such contracts must ensure that the  
258 owners and personnel of the vendor performing the electronic  
259 fingerprinting are qualified and will ensure the integrity and  
260 security of all personal identifying information.

261 (d) Vendors who submit fingerprints on behalf of employers

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262 must:

- 263 1. Meet the requirements of s. 943.053; and  
264 2. Have the ability to communicate electronically with the  
265 department or the Agency for Health Care Administration, as  
266 applicable, and to accept screening results from the Department  
267 of Law Enforcement and provide the applicant's full first name,  
268 middle initial, and last name; social security number or  
269 individual taxpayer identification number; date of birth;  
270 mailing address; sex; and race.

271 (e) The background screening under this section must ensure  
272 that a peer specialist has not, during the previous 3 years,  
273 been arrested for and is awaiting final disposition of, been  
274 found guilty of, regardless of adjudication, or entered a plea  
275 of nolo contendere or guilty to, or been adjudicated delinquent  
276 and the record has not been sealed or expunged for, any felony.

277 (f) The background screening under this section must ensure  
278 that a peer specialist has not been found guilty of, regardless  
279 of adjudication, or entered a plea of nolo contendere or guilty  
280 to, or been adjudicated delinquent and the record has not been  
281 sealed or expunged for, any offense prohibited under any of the  
282 following state laws or similar laws of another jurisdiction:

283 1. Section 393.135, relating to sexual misconduct with  
284 certain developmentally disabled clients and reporting of such  
285 sexual misconduct.

286 2. Section 394.4593, relating to sexual misconduct with  
287 certain mental health patients and reporting of such sexual  
288 misconduct.

289 3. Section 409.9201, relating to Medicaid fraud.

290 4. Section 415.111, relating to adult abuse, neglect, or

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- 291 exploitation of aged persons or disabled adults.
- 292 5. Section 741.28, relating to domestic violence.
- 293 6. Section 777.04, relating to attempts, solicitation, and  
294 conspiracy to commit an offense listed in this section.
- 295 7. Section 782.04, relating to murder.
- 296 8. Section 782.07, relating to manslaughter, aggravated  
297 manslaughter of an elderly person or disabled adult, aggravated  
298 manslaughter of a child, or aggravated manslaughter of an  
299 officer, a firefighter, an emergency medical technician, or a  
300 paramedic.
- 301 9. Section 782.071, relating to vehicular homicide.
- 302 10. Section 782.09, relating to killing of an unborn child  
303 by injury to the mother.
- 304 11. Chapter 784, relating to assault, battery, and culpable  
305 negligence, if the offense was a felony.
- 306 12. Section 787.01, relating to kidnapping.
- 307 13. Section 787.02, relating to false imprisonment.
- 308 14. Section 787.025, relating to luring or enticing a  
309 child.
- 310 15. Section 787.04(2), relating to leading, taking,  
311 enticing, or removing a minor beyond the state limits, or  
312 concealing the location of a minor, with criminal intent pending  
313 custody proceedings.
- 314 16. Section 787.04(3), relating to leading, taking,  
315 enticing, or removing a minor beyond the state limits, or  
316 concealing the location of a minor, with criminal intent pending  
317 dependency proceedings or proceedings concerning alleged abuse  
318 or neglect of a minor.
- 319 17. Section 790.115(1), relating to exhibiting firearms or

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- 320 weapons within 1,000 feet of a school.
- 321 18. Section 790.115(2)(b), relating to possessing an  
322 electric weapon or device, destructive device, or other weapon  
323 on school property.
- 324 19. Section 794.011, relating to sexual battery.
- 325 20. Former s. 794.041, relating to prohibited acts of  
326 persons in familial or custodial authority.
- 327 21. Section 794.05, relating to unlawful sexual activity  
328 with certain minors.
- 329 22. Section 794.08, relating to female genital mutilation.
- 330 23. Section 798.02, relating to lewd and lascivious  
331 behavior.
- 332 24. Chapter 800, relating to lewdness and indecent  
333 exposure.
- 334 25. Section 806.01, relating to arson.
- 335 26. Section 810.02, relating to burglary, if the offense  
336 was a felony of the first degree.
- 337 27. Section 810.14, relating to voyeurism, if the offense  
338 was a felony.
- 339 28. Section 810.145, relating to video voyeurism, if the  
340 offense was a felony.
- 341 29. Section 812.13, relating to robbery.
- 342 30. Section 812.131, relating to robbery by sudden  
343 snatching.
- 344 31. Section 812.133, relating to carjacking.
- 345 32. Section 812.135, relating to home-invasion robbery.
- 346 33. Section 817.50, relating to fraudulently obtaining  
347 goods or services from a health care provider and false reports  
348 of a communicable disease.

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- 349       34. Section 817.505, relating to patient brokering.
- 350       35. Section 825.102, relating to abuse, aggravated abuse,  
351 or neglect of an elderly person or disabled adult.
- 352       36. Section 825.1025, relating to lewd or lascivious  
353 offenses committed upon or in the presence of an elderly person  
354 or disabled person.
- 355       37. Section 825.103, relating to exploitation of an elderly  
356 person or disabled adult, if the offense was a felony.
- 357       38. Section 826.04, relating to incest.
- 358       39. Section 827.03, relating to child abuse, aggravated  
359 child abuse, or neglect of a child.
- 360       40. Section 827.04, relating to contributing to the  
361 delinquency or dependency of a child.
- 362       41. Former s. 827.05, relating to negligent treatment of  
363 children.
- 364       42. Section 827.071, relating to sexual performance by a  
365 child.
- 366       43. Section 831.30, relating to fraud in obtaining  
367 medicinal drugs.
- 368       44. Section 831.31, relating to sale, manufacture,  
369 delivery, possession with intent to sell, manufacture, or  
370 deliver any counterfeit controlled substance if the offense was  
371 a felony.
- 372       45. Section 843.01, relating to resisting arrest with  
373 violence.
- 374       46. Section 843.025, relating to depriving a law  
375 enforcement, correctional, or correctional probation officer of  
376 the means of protection or communication.
- 377       47. Section 843.12, relating to aiding in an escape.

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- 378       48. Section 843.13, relating to aiding in the escape of  
379 juvenile inmates of correctional institutions.
- 380       49. Chapter 847, relating to obscene literature.
- 381       50. Section 874.05, relating to encouraging or recruiting  
382 another to join a criminal gang.
- 383       51. Chapter 893, relating to drug abuse prevention and  
384 control, if the offense was a felony of the second degree or  
385 greater severity.
- 386       52. Section 895.03, relating to racketeering and collection  
387 of unlawful debts.
- 388       53. Section 896.101, relating to the Florida Money  
389 Laundering Act.
- 390       54. Section 916.1075, relating to sexual misconduct with  
391 certain forensic clients and reporting of such sexual  
392 misconduct.
- 393       55. Section 944.35(3), relating to inflicting cruel or  
394 inhuman treatment on an inmate resulting in great bodily harm.
- 395       56. Section 944.40, relating to escape.
- 396       57. Section 944.46, relating to harboring, concealing, or  
397 aiding an escaped prisoner.
- 398       58. Section 944.47, relating to introduction of contraband  
399 into a correctional facility.
- 400       59. Section 985.701, relating to sexual misconduct in  
401 juvenile justice programs.
- 402       60. Section 985.711, relating to contraband introduced into  
403 detention facilities.
- 404       (6) EXEMPTION REQUESTS.—A person who wishes to become a  
405 peer specialist and is disqualified under subsection (5) may  
406 request an exemption from disqualification pursuant to s. 435.07

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407 from the department or the Agency for Health Care  
408 Administration, as applicable.

409 (7) GRANDFATHER CLAUSE.—All peer specialists certified as  
410 of the effective date of this act are recognized as having met  
411 the requirements of this act.

412 Section 7. Subsection (1), paragraph (m) of subsection (3),  
413 and subsection (6) of section 397.487, Florida Statutes, are  
414 amended to read:

415 397.487 Voluntary certification of recovery residences.—

416 (1) The Legislature finds that a person suffering from  
417 addiction has a higher success rate of achieving long-lasting  
418 sobriety when given the opportunity to build a stronger  
419 foundation by living in a recovery residence while receiving  
420 treatment or after completing treatment. The Legislature further  
421 finds that this state and its subdivisions have a legitimate  
422 state interest in protecting these persons, who represent a  
423 vulnerable consumer population in need of adequate housing. It  
424 is the intent of the Legislature to protect persons who reside  
425 in a recovery residence.

426 (3) A credentialing entity shall require the recovery  
427 residence to submit the following documents with the completed  
428 application and fee:

429 (m) Proof of satisfactory fire, safety, and health  
430 inspections. A recovery residence must comply with the  
431 provisions of the Florida Fire Prevention Code which apply to  
432 one-family and two-family dwellings, public lodging  
433 establishments, rooming houses, or other housing facilities, as  
434 applicable.

435 (6) All owners, directors, and chief financial officers of

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436 an applicant recovery residence are subject to level 2  
437 background screening as provided under chapter 435 and s.  
438 408.809. A recovery residence is ineligible for certification,  
439 and a credentialing entity shall deny a recovery residence's  
440 application, if any owner, director, or chief financial officer  
441 has been found guilty of, or has entered a plea of guilty or  
442 nolo contendere to, regardless of adjudication, any offense  
443 listed in s. 408.809(4) or s. 435.04(2) unless the department  
444 has issued an exemption under s. 397.4073 or s. 397.4872. In  
445 accordance with s. 435.04, the department shall notify the  
446 credentialing agency of an owner's, director's, or chief  
447 financial officer's eligibility based on the results of his or  
448 her background screening.

449 Section 8. Section 397.4873, Florida Statutes, is amended  
450 to read:

451 397.4873 Referrals to or from recovery residences;  
452 prohibitions; penalties.-

453 (1) A service provider licensed under this part may not  
454 make a referral of a prospective, current, or discharged patient  
455 to, or accept a referral of such a patient from, a recovery  
456 residence unless the recovery residence holds a valid  
457 certificate of compliance as provided in s. 397.487 and is  
458 actively managed by a certified recovery residence administrator  
459 as provided in s. 397.4871.

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

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

463 (b) Referrals by a recovery residence to a licensed service  
464 provider when a resident has experienced a recurrence of



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465 substance use and, in the best judgment of the recovery  
466 residence administrator, it appears that the resident may  
467 benefit from clinical treatment services ~~the recovery residence~~  
468 ~~or its owners, directors, operators, or employees do not~~  
469 ~~benefit, directly or indirectly, from the referral.~~

470 (c) Referrals made before January 1, 2020 ~~July 1, 2018~~, by  
471 a licensed service provider to that licensed service provider's  
472 wholly owned subsidiary, if applications and associated fees are  
473 submitted by July 1, 2019.

474 (3) A recovery residence or its owners, directors,  
475 operators, employees, or volunteers may not receive a pecuniary  
476 benefit, directly or indirectly, from a licensed service  
477 provider for a referral made pursuant to subsection (1) or  
478 subsection (2).

479 ~~(4)~~ For purposes of this section, a licensed service  
480 provider or recovery residence shall be considered to have made  
481 a referral if the provider or recovery residence has informed a  
482 patient by any means about the name, address, or other details  
483 of a recovery residence or licensed service provider, or  
484 informed a licensed service provider or a recovery residence of  
485 any identifying details about a patient.

486 ~~(5)~~ A licensed service provider shall maintain records  
487 of referrals to or from recovery residences as may be prescribed  
488 by the department in rule.

489 ~~(6)~~ After June 30, 2019, a licensed service provider  
490 violating this section shall be subject to an administrative  
491 fine of \$1,000 per occurrence. Repeat violations of this section  
492 may subject a provider to license suspension or revocation  
493 pursuant to s. 397.415.

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494        ~~(7)~~~~(6)~~ Nothing in this section requires a licensed service  
495 provider to refer a patient to or to accept a referral of a  
496 patient from a recovery residence.

497        Section 9. Subsection (2) of section 435.07, Florida  
498 Statutes, is amended to read:

499        435.07 Exemptions from disqualification.—Unless otherwise  
500 provided by law, the provisions of this section apply to  
501 exemptions from disqualification for disqualifying offenses  
502 revealed pursuant to background screenings required under this  
503 chapter, regardless of whether those disqualifying offenses are  
504 listed in this chapter or other laws.

505        (2) Persons employed, or applicants for employment, by  
506 treatment providers who treat adolescents 13 years of age and  
507 older, and who are disqualified from employment solely because  
508 of crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c),  
509 s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and  
510 any related criminal attempt, solicitation, or conspiracy under  
511 s. 777.04, may be exempted from disqualification from employment  
512 pursuant to this chapter without application of the waiting  
513 period in subparagraph (1)(a)1.

514        Section 10. Paragraph (e) of subsection (5) of section  
515 212.055, Florida Statutes, is amended to read:

516        212.055 Discretionary sales surtaxes; legislative intent;  
517 authorization and use of proceeds.—It is the legislative intent  
518 that any authorization for imposition of a discretionary sales  
519 surtax shall be published in the Florida Statutes as a  
520 subsection of this section, irrespective of the duration of the  
521 levy. Each enactment shall specify the types of counties  
522 authorized to levy; the rate or rates which may be imposed; the

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523 maximum length of time the surtax may be imposed, if any; the  
524 procedure which must be followed to secure voter approval, if  
525 required; the purpose for which the proceeds may be expended;  
526 and such other requirements as the Legislature may provide.  
527 Taxable transactions and administrative procedures shall be as  
528 provided in s. 212.054.

529 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in  
530 s. 125.011(1) may levy the surtax authorized in this subsection  
531 pursuant to an ordinance either approved by extraordinary vote  
532 of the county commission or conditioned to take effect only upon  
533 approval by a majority vote of the electors of the county voting  
534 in a referendum. In a county as defined in s. 125.011(1), for  
535 the purposes of this subsection, "county public general  
536 hospital" means a general hospital as defined in s. 395.002  
537 which is owned, operated, maintained, or governed by the county  
538 or its agency, authority, or public health trust.

539 (e) A governing board, agency, or authority shall be  
540 chartered by the county commission upon this act becoming law.  
541 The governing board, agency, or authority shall adopt and  
542 implement a health care plan for indigent health care services.  
543 The governing board, agency, or authority shall consist of no  
544 more than seven and no fewer than five members appointed by the  
545 county commission. The members of the governing board, agency,  
546 or authority shall be at least 18 years of age and residents of  
547 the county. A ~~No~~ member may not be employed by or affiliated  
548 with a health care provider or the public health trust, agency,  
549 or authority responsible for the county public general hospital.  
550 The following community organizations shall each appoint a  
551 representative to a nominating committee: the South Florida

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552 Hospital and Healthcare Association, the Miami-Dade County  
553 Public Health Trust, the Dade County Medical Association, the  
554 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade  
555 County. This committee shall nominate between 10 and 14 county  
556 citizens for the governing board, agency, or authority. The  
557 slate shall be presented to the county commission and the county  
558 commission shall confirm the top five to seven nominees,  
559 depending on the size of the governing board. Until such time as  
560 the governing board, agency, or authority is created, the funds  
561 provided for in subparagraph (d)2. shall be placed in a  
562 restricted account set aside from other county funds and not  
563 disbursed by the county for any other purpose.

564 1. The plan shall divide the county into a minimum of four  
565 and maximum of six service areas, with no more than one  
566 participant hospital per service area. The county public general  
567 hospital shall be designated as the provider for one of the  
568 service areas. Services shall be provided through participants'  
569 primary acute care facilities.

570 2. The plan and subsequent amendments to it shall fund a  
571 defined range of health care services for both indigent persons  
572 and the medically poor, including primary care, preventive care,  
573 hospital emergency room care, and hospital care necessary to  
574 stabilize the patient. For the purposes of this section,  
575 "stabilization" means stabilization as defined in s. 397.311 ~~s.~~  
576 ~~397.311(45)~~. Where consistent with these objectives, the plan  
577 may include services rendered by physicians, clinics, community  
578 hospitals, and alternative delivery sites, as well as at least  
579 one regional referral hospital per service area. The plan shall  
580 provide that agreements negotiated between the governing board,

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581 agency, or authority and providers shall recognize hospitals  
582 that render a disproportionate share of indigent care, provide  
583 other incentives to promote the delivery of charity care to draw  
584 down federal funds where appropriate, and require cost  
585 containment, including, but not limited to, case management.  
586 From the funds specified in subparagraphs (d)1. and 2. for  
587 indigent health care services, service providers shall receive  
588 reimbursement at a Medicaid rate to be determined by the  
589 governing board, agency, or authority created pursuant to this  
590 paragraph for the initial emergency room visit, and a per-member  
591 per-month fee or capitation for those members enrolled in their  
592 service area, as compensation for the services rendered  
593 following the initial emergency visit. Except for provisions of  
594 emergency services, upon determination of eligibility,  
595 enrollment shall be deemed to have occurred at the time services  
596 were rendered. The provisions for specific reimbursement of  
597 emergency services shall be repealed on July 1, 2001, unless  
598 otherwise reenacted by the Legislature. The capitation amount or  
599 rate shall be determined before program implementation by an  
600 independent actuarial consultant. In no event shall such  
601 reimbursement rates exceed the Medicaid rate. The plan must also  
602 provide that any hospitals owned and operated by government  
603 entities on or after the effective date of this act must, as a  
604 condition of receiving funds under this subsection, afford  
605 public access equal to that provided under s. 286.011 as to any  
606 meeting of the governing board, agency, or authority the subject  
607 of which is budgeting resources for the retention of charity  
608 care, as that term is defined in the rules of the Agency for  
609 Health Care Administration. The plan shall also include

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610 innovative health care programs that provide cost-effective  
611 alternatives to traditional methods of service and delivery  
612 funding.

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

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

621 5. At the end of each fiscal year, the governing board,  
622 agency, or authority shall prepare an audit that reviews the  
623 budget of the plan, delivery of services, and quality of  
624 services, and makes recommendations to increase the plan's  
625 efficiency. The audit shall take into account participant  
626 hospital satisfaction with the plan and assess the amount of  
627 poststabilization patient transfers requested, and accepted or  
628 denied, by the county public general hospital.

629 Section 11. Subsection (3) of section 394.495, Florida  
630 Statutes, is amended to read:

631 394.495 Child and adolescent mental health system of care;  
632 programs and services.—

633 (3) Assessments must be performed by:

634 (a) A professional as defined in s. 394.455(5), (7), (33)  
635 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;

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

637 (c) A person who is under the direct supervision of a  
638 qualified professional as defined in s. 394.455(5), (7), (33)

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639 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
640 chapter 491.

641 Section 12. Subsection (5) of section 394.496, Florida  
642 Statutes, is amended to read:

643 394.496 Service planning.—

644 (5) A professional as defined in s. 394.455(5), (7), (33)  
645 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under  
646 chapter 491 must be included among those persons developing the  
647 services plan.

648 Section 13. Subsection (6) of section 394.9085, Florida  
649 Statutes, is amended to read:

650 394.9085 Behavioral provider liability.—

651 (6) For purposes of this section, the term ~~terms~~  
652 “detoxification services,” has the same meaning as  
653 detoxification in s. 397.311(26) (a), “addictions receiving  
654 facility,” has the same meaning as provided in s.  
655 397.311(26) (a), and “receiving facility” has ~~have~~ the same  
656 meaning ~~meanings~~ as ~~those~~ provided in s. 394.455 ~~ss.~~  
657 ~~397.311(26) (a) 4., 397.311(26) (a) 1., and 394.455(39),~~  
658 ~~respectively.~~

659 Section 14. Section 397.416, Florida Statutes, is amended  
660 to read:

661 397.416 Substance use disorder ~~abuse~~ treatment services;  
662 qualified professional.—Notwithstanding any other provision of  
663 law, a person who was certified through a certification process  
664 recognized by the former Department of Health and Rehabilitative  
665 Services before January 1, 1995, may perform the duties of a  
666 qualified professional with respect to substance use ~~abuse~~  
667 treatment services as defined in this chapter, and need not meet

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668 the certification requirements contained in s. 397.311(35) ~~s.~~  
669 ~~397.311(34)~~.

670 Section 15. Paragraph (b) of subsection (1) of section  
671 409.972, Florida Statutes, is amended to read:

672 409.972 Mandatory and voluntary enrollment.—

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

677 (b) Medicaid recipients residing in residential commitment  
678 facilities operated through the Department of Juvenile Justice  
679 or in a treatment facility as defined in s. 394.455 ~~s.~~  
680 ~~394.455(47)~~.

681 Section 16. Paragraphs (d) and (g) of subsection (1) of  
682 section 440.102, Florida Statutes, are amended to read:

683 440.102 Drug-free workplace program requirements.—The  
684 following provisions apply to a drug-free workplace program  
685 implemented pursuant to law or to rules adopted by the Agency  
686 for Health Care Administration:

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

689 (d) "Drug rehabilitation program" means a service provider  
690 as defined in s. 397.311 which, ~~established pursuant to s.~~  
691 ~~397.311(43), that~~ provides confidential, timely, and expert  
692 identification, assessment, and resolution of employee drug  
693 abuse.

694 (g) "Employee assistance program" means an established  
695 program capable of providing expert assessment of employee  
696 personal concerns; confidential and timely identification



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697 services with regard to employee drug abuse; referrals of  
698 employees for appropriate diagnosis, treatment, and assistance;  
699 and followup services for employees who participate in the  
700 program or require monitoring after returning to work. If, in  
701 addition to the above activities, an employee assistance program  
702 provides diagnostic and treatment services, these services shall  
703 in all cases be provided by service providers as defined in s.  
704 397.311 ~~pursuant to s. 397.311(43)~~.

705 Section 17. Paragraph (e) of subsection (4) of section  
706 464.012, Florida Statutes, is amended to read:

707 464.012 Licensure of advanced practice registered nurses;  
708 fees; controlled substance prescribing.—

709 (4) In addition to the general functions specified in  
710 subsection (3), an advanced practice registered nurse may  
711 perform the following acts within his or her specialty:

712 (e) A psychiatric nurse, who meets the requirements in s.  
713 394.455(36) ~~s. 394.455(35)~~, within the framework of an  
714 established protocol with a psychiatrist, may prescribe  
715 psychotropic controlled substances for the treatment of mental  
716 disorders.

717 Section 18. Subsection (7) of section 744.2007, Florida  
718 Statutes, is amended to read:

719 744.2007 Powers and duties.—

720 (7) A public guardian may not commit a ward to a treatment  
721 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an  
722 involuntary placement proceeding as provided by law.

723 Section 19. This act shall take effect July 1, 2019.