Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to substance abuse services; amending
s. 397.4073, F.S.; specifying that certified recovery
residence administrators and certain persons
associated with certified recovery residences are
subject to certain background screenings; requiring,
rather than authorizing, the exemption from
disqualification from employment for certain substance
abuse service provider personnel; revising eligibility
for exemption from disqualification from employment
for such personnel; amending s. 397.487, F.S.;
deleting a provision relating to background screenings
for certain persons associated with applicant recovery
residences; amending s. 397.4872, F.S.; deleting
provisions relating to exemptions from
disqualification for certain persons associated with
recovery residences; amending s. 397.4873, F.S.;
providing criminal penalties for violations relating
to recovery residence patient referrals; amending s.
817.505, F.S.; revising provisions relating to payment
practices exempt from prohibitions on patient
brokering; amending ss. 397.4871 and 435.07, F.S.;
conforming provisions to changes made by the act;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Paragraph (a) of subsection (1) and paragraph (b) of subsection (4) of section 397.4073, Florida Statutes, are amended to read:

397.4073 Background checks of service provider personnel.—
(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.—
(a) For all individuals screened on or after July 1, 2020, background checks shall apply as follows:

1. All owners, directors, chief financial officers, and clinical supervisors of service providers are subject to level 2 background screening as provided under s. 408.809 and chapter 435. Inmate substance abuse programs operated directly or under contract with the Department of Corrections are exempt from this requirement.

2. All service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

3. All peer specialists who have direct contact with individuals receiving services are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

4. All certified recovery residence owners, directors, chief financial officers, and certified recovery residence administrators are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

(4) EXEMPTIONS FROM DISQUALIFICATION.—
(b) Since rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of
individuals with substance use disorders, for service providers which treat adolescents 13 years of age and older, service provider personnel whose background checks indicate crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related criminal attempt, solicitation, or conspiracy under s. 777.04, shall may be exempted from disqualification from employment pursuant to this paragraph, provided that 5 years or more, or, in the case of a peer specialist certified pursuant to s. 397.417, 3 years or more, have elapsed since the applicant for an exemption from disqualification has completed or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant’s most recent disqualifying offense under this subsection and the applicant for exemption has not been arrested for any criminal offense within the past 3 years.

Section 2. Subsection (6) of section 397.487, Florida Statutes, is amended to read:

397.487 Voluntary certification of recovery residences.—
(6) All owners, directors, and chief financial officers of an applicant recovery residence are subject to level 2 background screening as provided under s. 408.809 and chapter 435. A recovery residence is ineligible for certification, and a credentialing entity shall deny a recovery residence’s application, if any owner, director, or chief financial officer has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in s. 408.809(4) or s. 435.04(2) unless the department has issued an exemption under s. 397.4073 or s. 397.4872. In
accordance with s. 435.04, the department shall notify the credentialing agency of an owner’s, director’s, or chief financial officer’s eligibility based on the results of his or her background screening.

Section 3. Section 397.4872, Florida Statutes, is amended to read:

397.4872 Exemption from disqualification; Publication.—

(1) Individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the department within 20 days after the denial by the credentialing entity and must include a justification for the exemption.

(2) The department may exempt a person from ss. 397.487(6) and 397.4871(5) if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. An exemption from the disqualifying offenses may not be given under any circumstances for any person who is a:

(a) Sexual predator pursuant to s. 775.21;
(b) Career offender pursuant to s. 775.261; or
(c) Sexual offender pursuant to s. 943.0435, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

(3) By April 1, 2016, each credentialing entity shall submit a list to the department of all recovery residences and recovery residence administrators certified by the credentialing entity that hold a valid certificate of compliance. Thereafter, the credentialing entity must notify the department within 3
business days after a new recovery residence or recovery
residence administrator is certified or a recovery residence or
recovery residence administrator’s certificate expires or is
terminated. The department shall publish on its website a list
of all recovery residences that hold a valid certificate of
compliance. The department shall also publish on its website a
list of all recovery residence administrators who hold a valid
certificate of compliance. A recovery residence or recovery
residence administrator shall be excluded from the list upon
written request to the department by the listed individual or
entity.

Section 4. Present subsections (4), (5), and (6) of section
397.4873, Florida Statutes, are redesignated as subsections (5),
(6), and (7), respectively, a new subsection (4) is added to
that section, and subsection (1) of that section is republished,
to read:

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

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

(4) In addition to any other punishment provided by law,
any person who willfully and knowingly violates subsection (1)
commits a misdemeanor of the first degree, punishable as
provided in s. 775.082 or s. 775.083.
Section 5. Paragraph (a) of subsection (3) of section 817.505, Florida Statutes, is amended to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

(3) This section shall not apply to the following payment practices:

(a) Any discount, payment, waiver of payment, or payment practice not prohibited expressly authorized by 42 U.S.C. s. 1320a-7b(b) or regulations promulgated adopted thereunder, regardless of whether such discount, payment, waiver of payment, or payment practice involves items or services for which payment may be made in whole or in part under federal health care programs as defined in 42 U.S.C. s. 1320a-7b(f), as that definition exists on July 1, 2020.

Section 6. Subsection (5) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.—

(5) All applicants are subject to level 2 background screening as provided under chapter 435. An applicant is ineligible, and a credentialing entity shall deny the application, if the applicant has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in s. 408.809 or s. 435.04(2) unless the department has issued an exemption under s. 397.4073 or s. 435.07 s. 397.4872. In accordance with s. 435.04, the department shall notify the credentialing agency of the applicant’s eligibility based on the results of his or her background screening.
Section 7. Subsection (2) of section 435.07, Florida

Statutes, is amended to read:

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

(2) Persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, or any related criminal attempt, solicitation, or conspiracy under s. 777.04, shall may be exempted from disqualification from employment pursuant to this chapter, provided that 5 years or more, or, in the case of a certified peer specialist pursuant to s. 397.417, 3 years or more, have elapsed since the applicant for an exemption from disqualification has completed or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant’s most recent disqualifying offense under this subsection and the applicant for exemption has not been arrested for any criminal offense within the past 3 years without application of the waiting period in subparagraph (1)(a)1.

Section 8. This act shall take effect July 1, 2020.