A bill to be entitled
An act relating to substance abuse services; amending
s. 397.4073, F.S.; requiring, rather than authorizing,
an exemption from disqualification from employment for
certain substance abuse service provider personnel
under certain circumstances; providing that certain
persons may be granted such exemption without a
waiting period under certain circumstances; amending
ss. 397.487 and 397.4871, F.S.; conforming cross-
references to changes made by the act; amending s.
397.4872, F.S.; removing the authority of the
Department of Children and Families to grant
exemptions from disqualification under ch. 397, F.S.,
under certain circumstances; removing an obsolete
provision; 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; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section
397.4073, Florida Statutes, is amended to read:
397.4073 Background checks of service provider personnel.—
(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 that 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:

1. Shall may be exempted from disqualification from employment for such offenses pursuant to this paragraph if:
   a. At least 5 years, or at least 3 years in the case of an individual seeking certification as a peer specialist under s. 397.417, have elapsed since the applicant requesting an exemption has completed or has been lawfully released from any confinement, supervision, or nonmonetary condition imposed by a court for the applicant’s most recent disqualifying offense under this paragraph.
   b. The applicant for an exemption has not been arrested for any offense during the 5 years, or 3 years in the case of a peer specialist, before the request for exemption.

2. May be exempted from disqualification from employment for such offenses without a waiting period as provided under s. 435.07(2).

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. 435.07 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. 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. 435.07 or
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 4. Subsections (2) and (3) of section 397.4872,
Florida Statutes, are amended to read:

397.4872 Exemption from disqualification; publication.—
(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.

(2) 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 5. 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 6. 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 thereunder.

Section 7. This act shall take effect July 1, 2020.