

CHAPTER 98-152

Senate Bill No. 1720

An act relating to rulemaking authority for the Department of Children and Family Services (RAB); amending s. 393.066, F.S.; providing for compliance with federal laws or regulations in rulemaking; amending s. 393.17, F.S.; providing for minimum standards in rules; amending s. 394.4781, F.S.; providing rulemaking authority; amending s. 394.78, F.S.; providing for the inclusion of financial requirements in rules; amending s. 394.879, F.S.; providing for inclusion of construction and design requirements in rules; amending s. 397.321, F.S.; authorizing the Department of Children and Family Services to develop standards for employee assistance programs; amending s. 397.427, F.S.; providing for inclusion of federal requirements in rules; amending s. 409.212, F.S.; providing rulemaking authority; amending s. 409.285, F.S.; providing rulemaking authority; providing an effective date.

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

Section 1. Subsection (9) of section 393.066, Florida Statutes, is amended to read:

393.066 Community services and treatment for persons who are developmentally disabled.—

(9) The department may adopt rules to ensure compliance with federal laws or regulations that apply to services provided pursuant to this section ~~that caretakers in day facilities comply with the requirements for good moral character.~~

Section 2. Section 393.17, Florida Statutes, is amended to read:

393.17 Behavioral programs; certification of behavior analysts; fees.— The department shall by rule implement a certification program to ensure that qualified persons oversee the design and implementation of behavioral programs for persons who are developmentally disabled. Certification and recertification minimum standards must comply with departmental rules and must include, for initial certification, shall be determined by examination of competencies in applying behavior analysis with persons who are developmentally disabled within established competency clusters. These competency clusters shall include, but not be limited to, behavioral assessments, observation and recording, behavioral program development and monitoring, and other areas as determined by professional practitioners of behavior analysis. Fees shall be charged for certification not to exceed the cost of development and administration of the examination and periodic renewal of certification. The department shall establish by rule the procedures for certification and certification renewal.

Section 3. Subsection (4) is added to section 394.4781, Florida Statutes, to read:

394.4781 Residential care for psychotic and emotionally disturbed children.—

(4) RULE ADOPTION.—The department may adopt rules to carry out this section, including rules concerning review and approval of applications for placement, cost-sharing, and client eligibility for placement, and rules to ensure that facilities from which the department purchases or contracts for services under this section provide:

(a) Minimum standards for client care and treatment practices, including ensuring that sufficient numbers and types of qualified personnel are on duty and available at all times to provide necessary and adequate client safety, care, and security.

(b) Minimum standards for client intake and admission, eligibility criteria, discharge planning, assessment, treatment planning, continuity of care, treatment modalities, service array, medical services, physical health services, client rights, maintenance of client records, and management of the treatment environment, including standards for the use of seclusion, restraints, and time-out.

(c) Minimum standards for facility operation and administration, fiscal accountability, personnel policies and procedures, and staff education, qualifications, experience, and training.

(d) Minimum standards for adequate infection control, housekeeping sanitation, disaster planning, fire safety, construction standards, and emergency services.

(e) Minimum standards for the establishment, organization, and operation of the licensed facility in accordance with program standards of the department.

(f) Licensing requirements.

Section 4. Paragraph (a) of subsection (1) of section 394.78, Florida Statutes, is amended to read:

394.78 Operation and administration; personnel standards; procedures for audit and monitoring of service providers; resolution of disputes.—

(1)(a) ~~The Department of Children and Family Health and Rehabilitative Services shall administer this part and shall adopt rules necessary for its administration. In addition to other rulemaking authority, the department may adopt financial rules relating to conflicts of interest; related party transactions; full disclosure of revenue funds and expenses; charts of accounts for state reporting; auditing; penalties for nonperformance; benefit packages; performance outcomes, including client satisfaction and functional assessments; nonpayment and suspended payments for failure to timely submit required client service reports; and client financial eligibility requirements.~~

Section 5. Paragraph (f) is added to subsection (1) of section 394.879, Florida Statutes, to read:

394.879 Rules; enforcement.—

(1) The department shall adopt reasonable rules to implement this chapter, including, at a minimum, rules providing standards to ensure that:

(f) Facility construction and design requirements are consistent with the patients' conditions and that the operation and purposes of these facilities assure individuals' health, safety, and welfare.

Section 6. Subsection (12) of section 397.321, Florida Statutes, is amended to read:

397.321 Duties of the department.—The department shall:

(12) ~~Develop standards for cooperate in the development of~~ employee assistance programs for employees of state government, local governments, and private business.

Section 7. Paragraph (c) is added to subsection (3) of section 397.427, Florida Statutes, to read:

397.427 Medication treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout methadone; unlawful operation; penalty.—

(3) The department shall adopt rules necessary to administer this section, including, but not limited to, rules prescribing criteria and procedures for:

(c) Administering any federally required rules, regulations, or procedures.

Section 8. Subsection (5) is added to section 409.212, Florida Statutes, to read:

409.212 Optional supplementation.—

(5) The department may adopt rules to administer this section relating to eligibility requirements for optional state supplementation.

Section 9. Subsection (3) is added to section 409.285, Florida Statutes, to read:

409.285 Opportunity for hearing and appeal.—

(3) The department may adopt rules to administer this section. Rules for the Temporary Assistance for Needy Families block grant programs must be similar to the federal requirements for Medicaid programs.

Section 10. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 22, 1998.

Filed in Office Secretary of State May 21, 1998.