# CHAPTER 2005-55

## Senate Bill No. 356

An act relating to substance abuse treatment; amending s. 394.499, F.S.; authorizing the Department of Children and Family Services to expand certain demonstration models; amending s. 397.311, F.S.; including intensive inpatient treatment within the service components provided by a licensed service provider; defining the term "medical monitoring"; amending s. 212.055, F.S., relating to the county public hospital surtax; conforming a cross-reference; reenacting ss. 397.405(8) and 397.407(1), F.S., relating to treatment providers, to incorporate the amendment to s. 397.311, F.S., in references thereto; amending ss. 397.416 and 440.102, F.S., relating to treatment services and the drug-free workplace program; conforming cross-references; providing an effective date.

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

Section 1. Subsection (1) of section 394.499, Florida Statutes, is amended to read:

394.499 Integrated children's crisis stabilization unit/juvenile addictions receiving facility services.—

(1) Beginning July 1, 2001, the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, is authorized to establish children's behavioral crisis unit demonstration models in Collier, Lee, and Sarasota Counties. By December 31, 2003, the department shall submit to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees that oversee departmental activities a report that evaluates the number of clients served, quality of services, performance outcomes, and feasibility of continuing or expanding the demonstration models. As a result of the recommendations regarding expansion of the demonstration models contained in the evaluation report of December 31, 2003 ~~Beginning July 1, 2004, subject to approval by the Legislature~~, the department, in cooperation with the agency, may expand the demonstration models to other areas in the state after July 1, 2005. The children's behavioral crisis unit demonstration models will integrate children's mental health crisis stabilization units with substance abuse juvenile addictions receiving facility services, to provide emergency mental health and substance abuse services that are integrated within facilities licensed and designated by the agency for children under 18 years of age who meet criteria for admission or examination under this section. The services shall be designated as "integrated children's crisis stabilization unit/juvenile addictions receiving facility services," shall be licensed by the agency as children's crisis stabilization units, and shall meet all licensure requirements for crisis stabilization units. The department, in cooperation with the agency, shall develop standards that address eligibility criteria; clinical procedures; staffing requirements; operational, administrative, and financing requirements; and investigation of complaints for such

integrated facility services. Standards that are implemented specific to substance abuse services shall meet or exceed existing standards for addictions receiving facilities.

Section 2. Subsection (18) of section 397.311, Florida Statutes, is amended, present subsections (19) through (29) of that section are redesignated as subsections (20) through (30), respectively, and a new subsection (19) is added to that section, to read:

397.311 Definitions.—As used in this chapter, except part VIII:

(18) "Licensed service provider" means a public agency under this chapter, a private for-profit or not-for-profit agency under this chapter, a physician or any other private practitioner licensed under this chapter, or a hospital that offers substance abuse impairment services through one or more of the following licensable service components:

(a) Addictions receiving facility, which is a community-based facility designated by the department to receive, screen, and assess clients found to be substance abuse impaired, in need of emergency treatment for substance abuse impairment, or impaired by substance abuse to such an extent as to meet the criteria for involuntary admission in s. 397.675, and to provide detoxification and stabilization. An addictions receiving facility must be state-owned, state-operated, or state-contracted, and licensed pursuant to rules adopted by the department's Substance Abuse Program Office which include specific authorization for the provision of levels of care and a requirement of separate accommodations for adults and minors. Addictions receiving facilities are designated as secure facilities to provide an intensive level of care and must have sufficient staff and the authority to provide environmental security to handle aggressive and difficult-to-manage behavior and deter elopement.

(b) Detoxification, which uses medical and psychological procedures and a supportive counseling regimen to assist clients in managing toxicity and withdrawing and stabilizing from the physiological and psychological effects of substance abuse impairment.

(c) Intensive inpatient treatment, which includes a planned regimen of professionally directed evaluation, observation, medical monitoring, and clinical protocols provided 24 hours per day, 7 days per week in a highly structured, live-in environment.

(d)~~(c)~~ Residential treatment, which provides a structured, live-in environment within a nonhospital setting on a 24-hours-a-day, 7-days-a-week basis, and which includes:

1. Facilities that provide room and board and treatment and rehabilitation within the primary residential facility; and

2. Facilities that are used for room and board only and in which treatment and rehabilitation activities are provided on a mandatory basis at locations other than the primary residential facility. In this case, facilities used for room and board and for treatment and rehabilitation are operated

under the auspices of the same provider, and licensing and regulatory requirements would apply to both the residential facility and all other facilities in which treatment and rehabilitation activities occur.

(e)~~(d)~~ Day and night treatment, which provides a nonresidential environment with a structured schedule of treatment and rehabilitation services.

(f)~~(e)~~ Outpatient treatment, which provides individual, group, or family counseling for clients by appointment during scheduled operating hours, with an emphasis on assessment and treatment.

(g)~~(f)~~ Medication and methadone maintenance treatment that uses methadone or other medication as authorized by state and federal law, in conjunction with medical, rehabilitative, and counseling services in the treatment of clients who are dependent upon opioid drugs.

(h)~~(g)~~ Prevention, which is a process involving strategies aimed at the individual, the environment, or the substance, which strategies preclude, forestall, or impede the development of substance abuse problems and promote responsible personal and social growth of individuals and families toward full human potential.

(i)~~(h)~~ Intervention, which consists of structured services targeted toward individuals or groups at risk and focused on reducing those factors associated with the onset or the early stages of substance abuse, and related problems.

(19) "Medical monitoring" means oversight and treatment, 24 hours per day by medical personnel who are licensed under chapter 458, chapter 459, or chapter 464, of clients whose subacute biomedical, emotional, psychosocial, behavioral, or cognitive problems are so severe that the clients require intensive inpatient treatment by an interdisciplinary team.

Section 3. Paragraph (e) of subsection (5) of section 212.055, Florida Statutes, is amended to read:

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

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in

s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

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

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

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including primary care, preventive care, hospital emergency room care, and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in <u>s. 397.311(30)</u> ~~s. 397.311(29)~~. Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least one regional referral hospital per service area. The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care to draw down federal funds where appropriate, and require cost containment, including, but not limited to, case management. From the funds specified in subparagraphs (d)1. and 2. for indigent health care services, service providers shall receive reimbursement at a Medicaid rate to be determined by the governing board, agency, or authority created pursuant to this paragraph for the initial emergency room visit, and a per-member per-month fee or capitation for those members enrolled in their service area, as compensation for the services

rendered following the initial emergency visit. Except for provisions of emergency services, upon determination of eligibility, enrollment shall be deemed to have occurred at the time services were rendered. The provisions for specific reimbursement of emergency services shall be repealed on July 1, 2001, unless otherwise reenacted by the Legislature. The capitation amount or rate shall be determined prior to program implementation by an independent actuarial consultant. In no event shall such reimbursement rates exceed the Medicaid rate. The plan must also provide that any hospitals owned and operated by government entities on or after the effective date of this act must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to any meeting of the governing board, agency, or authority the subject of which is budgeting resources for the retention of charity care, as that term is defined in the rules of the Agency for Health Care Administration. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.

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

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

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

Section 4. For the purpose of incorporating the amendment made by this act to section 397.311, Florida Statutes, in a reference thereto, subsection (8) of section 397.405, Florida Statutes, is reenacted to read:

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

(8) An established and legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are exclusively religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensable service components itemized under s. 397.311(18) is not exempt for purposes of its provision of such licensable service components but retains its exemption with respect to all services which are exclusively religious, spiritual, or ecclesiastical in nature.

Section 5. For the purpose of incorporating the amendment made by this act to section 397.311, Florida Statutes, in a reference thereto, subsection (1) of section 397.407, Florida Statutes, is reenacted to read:

397.407 Licensure fees.—

(1) The department shall establish licensure fees by rule. The rule must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s. 397.311(18) which are operated by a licensee. The fee range must be implemented over a 5-year period. The fee schedule for licensure of service components must be increased annually in substantially equal increments so that, by July 1, 1998, the fees from the licensure of service components are sufficient to cover at least 50 percent of the costs of regulating the service components. The department shall specify by rule a fee range and phase-in plan for privately funded licensed service providers and a fee range and phase-in plan for publicly funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers. The first year phase-in licensure fees must be at least $150 per initial license. The rule must provide for a reduction in licensure fees for licensed service providers who hold more than one license.

Section 6. Subsection (2) of section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—

(2) Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(25) ~~s. 397.311(24)~~.

Section 7. Paragraphs (d) and (g) of subsection (1) of section 440.102, Florida Statutes, are amended to read:

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

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

(d) "Drug rehabilitation program" means a service provider, established pursuant to s. 397.311(28) ~~s. 397.311(27)~~, that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

(g) "Employee assistance program" means an established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and followup services for employees who participate in the program or require monitoring after returning to work. If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by service providers pursuant to s. 397.311(28) ~~s. 397.311(27)~~.

Section 8. This act shall take effect July 1, 2005.

Approved by the Governor May 26, 2005.

Filed in Office Secretary of State May 26, 2005.