

Committee Substitute for  
Committee Substitute for Senate Bill No. 2612

An act relating to substance abuse and mental health services; amending s. 212.055, F.S.; conforming a cross-reference; amending s. 394.67, F.S.; redefining the term “residential treatment center for children and adolescents”; amending s. 394.674, F.S.; establishing priority populations of persons who are eligible for services funded by the Department of Children and Family Services; amending s. 394.908, F.S.; conforming terminology to changes made by the act; amending s. 394.9085, F.S.; conforming a cross-reference; amending s. 397.301, F.S.; deleting an obsolete provision; amending s. 397.305, F.S.; revising the legislative intent, purpose, and findings; amending s. 397.311, F.S.; revising definitions; amending s. 397.321, F.S.; revising the duties of the Department of Children and Family Services; deleting a provision that authorizes the department to establish a pilot project to serve certain persons who qualify to receive substance abuse or mental health services in a specified district; amending s. 397.331, F.S.; revising the term “substance abuse programs and services” or “drug control”; amending s. 397.401, F.S.; providing that it is unlawful for an unlicensed agency to act as a substance abuse service provider; amending s. 397.403, F.S.; revising requirements for a license application; amending s. 397.405, F.S.; providing that physician assistants are exempt from licensing requirements under ch. 397, F.S.; providing that a crisis stabilization unit is exempt from licensure; conforming a cross-reference; authorizing the department to adopt certain rules; providing that ch. 397, F.S., does not limit the practice of a physician assistant or an advanced registered nurse practitioner who provides substance abuse treatment under certain circumstances; amending s. 397.406, F.S.; providing that substance abuse programs operated directly or under contract by the Department of Juvenile Justice are subject to licensure and regulation; amending s. 397.407, F.S.; conforming a cross-reference; revising the licensure process; authorizing the Department of Children and Family Services to issue probationary, regular, and interim licenses; providing requirements for probationary, regular, and interim licenses; repealing s. 397.409, F.S., relating to probationary, regular, and interim licenses; amending s. 397.411, F.S.; requiring the department to notify certain applicable agencies of any licensure inspections of service providers; amending s. 397.415, F.S.; requiring that fines collected as administrative penalties be deposited in the Operations and Maintenance Trust Fund of the department rather than the Substance Abuse Impairment Provider Licensing Trust Fund; revising requirements for suspending or revoking a license; amending s. 397.416, F.S.; conforming a cross-reference; amending s. 397.419, F.S.; renaming quality assurance programs to “quality improvement programs”; conforming provisions to changes made by the act; providing that certain records are not admissible in any civil or administrative action except in

disciplinary proceedings by the Department of Health, and not the Department of Business and Professional Regulation; revising minimum guidelines for a service provider's quality improvement program; providing additional requirements for a quality improvement program; deleting a provision that requires a quality assurance program to incorporate a peer review process; amending s. 397.427, F.S.; specifying that medication treatment service providers are providers of medication-assisted treatment services for opiate addiction; conforming provisions to changes made by the act; requiring the department to determine the need for establishing medication-assisted treatment services for other substance-use disorders; requiring service providers that provide medication-assisted treatment for other substance-use disorders to provide counseling services; requiring the department to adopt rules to administer medication-assisted treatment services; authorizing a physician assistant, registered nurse, an advanced registered nurse practitioner, and a licensed practical nurse to deliver medication, other than methadone, for the purpose of medication-assisted treatment for opiate addiction under certain conditions; authorizing a physician assistant to deliver takeout medication for opiate treatment to certain persons; requiring a licensed service provider that provides medication-assisted treatment to adopt written protocols; providing requirements for the protocols; requiring a licensed service provider that provides medication-assisted treatment to maintain and have ready for inspection medical records and protocols; amending s. 397.431, F.S.; conforming provisions to changes made by the act; amending s. 397.451, F.S.; providing that inmate substance abuse programs are exempt from level 2 background screenings; clarifying that certain personnel employed in an inmate substance abuse program are exempt from fingerprinting and background check requirements; amending ss. 397.471, 397.501, 397.581, 397.601, 397.6751, 397.6752, 397.6758, 397.6773, 397.6797, 397.6799, 397.6819, 397.6821, 397.6822, 397.697, 397.6971, 397.6975, 397.6977, 397.702, 397.706, 397.801, 397.821, 397.94, 397.95, 397.97, 397.99, F.S.; conforming provisions to changes made by the act; amending s. 440.102, F.S.; conforming a cross-reference; amending s. 766.101, F.S.; redefining the term "medical review committee" to include a committee to review mental health and substance abuse treatment services provided by the department; repealing s. 394.9081, F.S., relating to target groups for substance abuse and mental health services; providing an effective date.

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

Section 1. 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 ~~s. 397.311(35)~~ ~~s. 397.311(30)~~. 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 2. Subsection (21) of section 394.67, Florida Statutes, is amended to read:

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

(21) “Residential treatment center for children and adolescents” means a 24-hour residential program, including a therapeutic group home, which provides mental health services to emotionally disturbed children or adolescents as defined in s. 394.492(5) or (6) and which is a private for-profit or not-for-profit corporation licensed by the agency under contract with the department which offers a variety of treatment modalities in a more restrictive setting.

Section 3. Section 394.674, Florida Statutes, is amended to read:

394.674 ~~Clinical~~ Eligibility for publicly funded substance abuse and mental health services; fee collection requirements.—

(1) To be eligible to receive substance abuse and mental health services funded by the department, an individual ~~a person~~ must be a member of at least one of the department’s priority populations target groups approved by the Legislature, pursuant to s. 216.0166. The priority populations include:

(a) For adult mental health services:

1. Adults who have severe and persistent mental illness, as designated by the department using criteria that include severity of diagnosis, duration of the mental illness, ability to independently perform activities of daily living, and receipt of disability income for a psychiatric condition. Included within this group are:

a. Older adults in crisis.

b. Older adults who are at risk of being placed in a more restrictive environment because of their mental illness.

c. Persons deemed incompetent to proceed or not guilty by reason of insanity under chapter 916.

d. Other persons involved in the criminal justice system.

e. Persons diagnosed as having co-occurring mental illness and substance abuse disorders.

2. Persons who are experiencing an acute mental or emotional crisis as defined in s. 394.67(17).

(b) For children’s mental health services:

1. Children who are at risk of emotional disturbance as defined in s. 394.492(4).

2. Children who have an emotional disturbance as defined in s. 394.492(5).

3. Children who have a serious emotional disturbance as defined in s. 394.492(6).

4. Children diagnosed as having a co-occurring substance abuse and emotional disturbance or serious emotional disturbance.

(c) For substance abuse treatment services:

1. Adults who have substance abuse disorders and a history of intravenous drug use.

2. Persons diagnosed as having co-occurring substance abuse and mental health disorders.

3. Parents who put children at risk due to a substance abuse disorder.

4. Persons who have a substance abuse disorder and have been ordered by the court to receive treatment.

5. Children at risk for initiating drug use.

6. Children under state supervision.

7. Children who have a substance abuse disorder but who are not under the supervision of a court or in the custody of a state agency.

8. Persons identified as being part of a priority population as a condition for receiving services funded through the Center for Mental Health Services and Substance Abuse Prevention and Treatment Block Grants.

(2) Crisis services, as defined in s. 394.67, must, within the limitations of available state and local matching resources, be available to each person who is eligible for services under subsection (1), regardless of the person's ability to pay for such services. A person who is experiencing a mental health crisis and who does not meet the criteria for involuntary examination under s. 394.463(1), or a person who is experiencing a substance abuse crisis and who does not meet the involuntary admission criteria in s. 397.675, must contribute to the cost of his or her care and treatment pursuant to the sliding fee scale developed under subsection (4), unless charging a fee is contraindicated because of the crisis situation.

(3) Mental health services, substance abuse services, and crisis services, as defined in s. 394.67, must, within the limitations of available state and local matching resources, be available to each person who is eligible for services under subsection (1). Such person must contribute to the cost of his or her care and treatment pursuant to the sliding fee scale developed under subsection (4).

(4) The department shall adopt rules to implement client ~~the clinical~~ eligibility, client enrollment, and fee collection requirements for publicly funded substance abuse and mental health services.

(a) The rules must require ~~that~~ each provider under contract with the department which enrolls eligible persons into treatment to develop a sliding fee scale for persons who have a net family income at or above 150 percent of the Federal Poverty Income Guidelines, unless otherwise required by state or federal law. The sliding fee scale must use the uniform schedule of discounts by which a provider under contract with the department discounts its established client charges for services supported with state, federal, or local funds, using, at a minimum, factors such as family

income, financial assets, and family size as declared by the person or the person's guardian. The rules must include uniform criteria to be used by all service providers in developing the schedule of discounts for the sliding fee scale.

(b) The rules must address the most expensive types of treatment, such as residential and inpatient treatment, in order to make it possible for a client to responsibly contribute to his or her mental health or substance abuse care without jeopardizing the family's financial stability. A person who is not eligible for Medicaid and whose net family income is less than 150 percent of the Federal Poverty Income Guidelines must pay a portion of his or her treatment costs which is comparable to the copayment amount required by the Medicaid program for Medicaid clients pursuant to s. 409.9081.

(c) The rules must require that persons who receive financial assistance from the Federal Government because of a disability and are in long-term residential treatment settings contribute to their board and care costs and treatment costs and must be consistent with the provisions in s. 409.212.

(5) A person who meets the eligibility criteria in subsection (1) shall be served in accordance with the appropriate district substance abuse and mental health services plan specified in s. 394.75 and within available resources.

Section 4. Section 394.908, Florida Statutes, is amended to read:

394.908 Substance abuse and mental health funding equity; distribution of appropriations.—In recognition of the historical inequity in the funding of substance abuse and mental health services for the department's districts and regions and to rectify this inequity and provide for equitable funding in the future throughout the state, the following funding process shall be used:

(1) Funding thresholds for substance abuse and mental health services in each of the current districts, statewide, shall be established based on the current number of individuals ~~persons~~ in need per district of substance abuse and mental health services, respectively.

(2) "Individuals ~~Persons~~ in need" means those persons who fit the profile of the respective priority ~~target~~ populations and require mental health or substance abuse services.

(3)

(a) Any additional funding beyond the 2005-2006 fiscal year base appropriation for alcohol, drug abuse, and mental health services shall be allocated to districts for substance abuse and mental health services based on:

1. Epidemiological estimates of disabilities that apply to the respective priority ~~target~~ populations.

2. A pro rata share distribution that ensures districts below the state-wide average funding level per individual ~~person~~ in each priority ~~target~~

population of "individuals ~~persons~~ in need" receive funding necessary to achieve equity.

(b) Notwithstanding paragraph (a) and for the 2008-2009 fiscal year only, funds appropriated for forensic mental health treatment services shall be allocated to the areas of the state having the greatest demand for services and treatment capacity. This paragraph expires July 1, 2009.

(c) Notwithstanding paragraph (a) and for the 2008-2009 fiscal year only, additional funds appropriated for mental health services from funds available through the Community-Based Medicaid Administrative Claiming Program shall be allocated as provided in the 2008-2009 General Appropriations Act and in proportion to contributed provider earnings. Where these mental health funds are used in lieu of funds from the General Revenue Fund, the allocation of funds shall be unchanged from the allocation for those funds for the 2007-2008 fiscal year. This paragraph expires July 1, 2009.

(4) Priority Target populations for individuals ~~persons~~ in need shall be displayed for each district and distributed concurrently with the approved operating budget. The display by priority target population shall show: The annual number of individuals ~~persons~~ served based on prior year actual numbers, the annual cost per individual ~~person~~ served, and the estimated number of the total priority target population for individuals ~~persons~~ in need.

(5) The annual cost per individual ~~person~~ served shall be defined as the total actual funding for each priority target population divided by the number of individuals ~~persons~~ served in the priority target population for that year.

Section 5. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification services program," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(18)(a)4, 397.311(18)(a)1, 397.311(18)(b), 397.311(18)(a), and 394.455(26), respectively.

Section 6. Section 397.301, Florida Statutes, is amended to read:

397.301 Short title.—This act may be cited as the "Hal S. Marchman Alcohol and Other Drug Services Act of 1993."

Section 7. Section 397.305, Florida Statutes, is amended to read:

397.305 Legislative findings, intent, and purpose.—

(1) Substance abuse is a major health problem that affects multiple service systems and leads to such profoundly disturbing consequences as serious impairment, chronic addiction, criminal behavior, vehicular casualties, spiraling health care costs, AIDS, and business losses, and significantly

profoundly affects the culture, socialization, and learning ability of children within our schools and educational systems. Substance abuse impairment is a disease which affects the whole family and the whole society and requires a system of care that includes specialized prevention, intervention, clinical and treatment, and recovery support services that support and strengthen the family unit. Further, it is the intent of the Legislature to require the collaboration of state agencies, service systems, and program offices to achieve the goals of this chapter and address the needs of the public; to establish a comprehensive system of care for substance abuse; and to reduce duplicative requirements across state agencies. This chapter is designed to provide for substance abuse services.

(2) It is the goal of the Legislature to discourage substance abuse by promoting healthy lifestyles, healthy families, and drug-free schools, workplaces, and communities.

~~(3)(2) It is the purpose of this chapter to provide for a comprehensive continuum of accessible and quality substance abuse prevention, intervention, clinical and treatment, and recovery support services in the least restrictive environment which promotes long-term recovery while protecting and respecting of optimum care that protects and respects the rights of individuals clients, especially for involuntary admissions, primarily through community-based private not-for-profit providers working with local governmental programs involving a wide range of agencies from both the public and private sectors.~~

~~(4)(3) It is the intent of the Legislature to ensure within available resources a full system of care for continuum of substance abuse services based on projected identified needs, delivered without discrimination and with adequate provision for specialized needs.~~

(5) It is the intent of the Legislature to establish services for individuals with co-occurring substance abuse and mental disorders.

~~(4) It is the goal of the Legislature to discourage substance abuse by promoting healthy lifestyles and drug-free schools, workplaces, and communities.~~

~~(5) It is the purpose of the Legislature to integrate program evaluation efforts, adequate administrative support services, and quality assurance strategies with direct service provision requirements and to ensure funds for these purposes.~~

~~(6) It is the intent of the Legislature to require the cooperation of departmental programs, services, and program offices in achieving the goals of this chapter and addressing the needs of clients.~~

~~(6)(7) It is the intent of the Legislature to provide, for substance abuse impaired adult and juvenile offenders, an alternative to criminal imprisonment for substance abuse impaired adults and juvenile offenders by encouraging the referral of such offenders to service providers not generally available within the juvenile justice and correctional systems, system instead of or in addition to criminal penalties.~~

~~(7)~~(8) It is the intent of the Legislature to provide, within the limits of appropriations and safe management of the juvenile justice and correctional systems system, substance abuse services to substance abuse impaired offenders who are placed by the Department of Juvenile Justice or who are incarcerated within the Department of Corrections, in order to better enable these offenders or inmates to adjust to the conditions of society presented to them when their terms of placement or incarceration end.

(8)(9) It is the intent of the Legislature to provide for assisting substance abuse impaired persons primarily through health and other rehabilitative services in order to relieve the police, courts, correctional institutions, and other criminal justice agencies of a burden that interferes with their ability to protect people, apprehend offenders, and maintain safe and orderly communities.

~~(10)~~—It is the purpose of the Legislature to establish a clear framework for the comprehensive provision of substance abuse services in the context of a coordinated and orderly system.

(9)(11) It is the intent of the Legislature that the freedom of religion of all citizens shall be inviolate. Nothing in this act shall give any governmental entity jurisdiction to regulate religious, spiritual, or ecclesiastical services.

Section 8. Section 397.311, Florida Statutes, is amended to read:

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

(1) “Ancillary services” are services that ~~which~~ include, but are not limited to, special diagnostic, prenatal and postnatal, other medical, mental health, legal, economic, vocational, employment, and educational services.

~~(2)~~—“Assessment” means the systematic evaluation of information gathered to determine the nature and severity of the client’s substance abuse problem and the client’s need and motivation for services. Assessment entails the use of a psychosocial history supplemented, as required by rule, by medical examinations, laboratory testing, and psychometric measures.

~~(2)~~(3) “Authorized agent of the department” means a person designated by the department to conduct any audit, inspection, monitoring, evaluation, or other duty imposed upon the department pursuant to this chapter. An authorized agent must be qualified by expertise and experience to perform these functions. ~~identified by the department as:~~

- ~~(a)~~—Qualified by the requisite expertise and experience;
- ~~(b)~~—Having a need to know the applicable information; and
- ~~(c)~~—Having the assigned responsibility to carry out the applicable duty.

(3)(4) “Beyond the safe management capabilities of the service provider” refers to an individual ~~a client~~ who is in need of:

- (a) Supervision;
- (b) Medical care; or
- (c) Services,

beyond that which the service provider or service component can deliver.

(4) “Clinical assessment” means the collection of detailed information concerning an individual’s substance use, emotional and physical health, social roles, and other areas that may reflect the severity of the individual’s abuse of alcohol or drugs. The collection of information serves as a basis for identifying an appropriate treatment regimen.

~~(5) “Client” means a recipient of alcohol or other drug services delivered by a service provider but does not include an inmate pursuant to part VIII unless expressly so provided.~~

~~(6) “Client identifying information” means the name, address, social security number, fingerprints, photograph, and similar information by which the identity of a client can be determined with reasonable accuracy and speed either directly or by reference to other publicly available information.~~

~~(5)(7) “Court” means, with respect to all involuntary proceedings under this chapter, the circuit court of the county in which the judicial proceeding is pending or where the substance abuse impaired person resides or is located, and includes any general or special magistrate that may be appointed by the chief judge to preside over all or part of such proceeding. Otherwise, “court” refers to the court of legal jurisdiction in the context in which the term is used in this chapter.~~

~~(6)(8) “Department” means the Department of Children and Family Services.~~

~~(7)(9) “Director” means the chief administrative or executive officer of a service provider.~~

~~(8)(10) “Disclose” or “disclosure” means a communication of client identifying information, the affirmative verification of another person’s communication of client identifying information, or the communication of any information regarding an individual of a client who has received services been identified. Any disclosure made pursuant to this chapter must be limited to that information which is necessary to carry out the purpose of the disclosure.~~

~~(9)(11) “Fee system” means a method of establishing charges for services rendered, in accordance with an individual’s a client’s ability to pay, used by providers that receive state funds.~~

~~(10)(12) “For profit” means registered as for profit by the Secretary of State and recognized by the Internal Revenue Service as a for-profit entity.~~

~~(11)(13) “Habitual abuser” means a person who is brought to the attention of law enforcement for being substance impaired, who meets the criteria~~

for involuntary admission in s. 397.675, and who has been taken into custody for such impairment three or more times during the preceding 12 months.

~~(12)~~(14) “Hospital” means a hospital or hospital-based component licensed under chapter 395.

(13) “Identifying information” means the name, address, social security number, fingerprints, photograph, and similar information by which the identity of an individual can be determined with reasonable accuracy directly or by reference to other publicly available information.

~~(14)~~(15) “Impaired” or “substance abuse impaired” means a condition involving the use of alcoholic beverages or any psychoactive or mood-altering substance in such a manner as to induce mental, emotional, or physical problems and cause socially dysfunctional behavior.

(15) “Individual” means a person who receives alcohol or other drug abuse treatment services delivered by a service provider. The term does not include an inmate pursuant to part VIII of this chapter unless expressly so provided.

~~(16) “Individualized treatment or service plan” means an immediate and a long-range plan for substance abuse or ancillary services developed on the basis of a client’s assessed needs.~~

~~(16)~~(17) “Law enforcement officer” means a law enforcement officer as defined in s. 943.10(1).

~~(17)~~(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 licensed of the following ~~licensable~~ service components.

(18) Licensed service components include a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services, including the following services:

(a) “Clinical treatment” means a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle. As defined by rule, “clinical treatment services” include, but are not limited to, the following licensable service components:

1. “Addictions receiving facility” is a secure, acute care facility that provides, at a minimum, detoxification and stabilization services; is operated 24 hours per day, 7 days per week; and is designated by the department to serve individuals found to be substance use impaired as described in s. 397.675 who meet the placement criteria for this component.

2. “Day or night treatment” is a service provided in a nonresidential environment, with a structured schedule of treatment and rehabilitative services.

3. “Day or night treatment with community housing” means a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services for a minimum of 5 hours a day for a minimum of 25 hours per week.

4. “Detoxification” is a service involving subacute care that is provided on an inpatient or an outpatient basis to assist individuals to withdraw from the physiological and psychological effects of substance abuse and who meet the placement criteria for this component.

5. “Intensive inpatient treatment” includes a planned regimen of evaluation, observation, medical monitoring, and clinical protocols delivered through an interdisciplinary team approach provided 24 hours per day, 7 days per week, in a highly structured, live-in environment.

6. “Intensive outpatient treatment” is a service that provides individual or group counseling in a more structured environment, is of higher intensity and duration than outpatient treatment, and is provided to individuals who meet the placement criteria for this component.

7. “Medication-assisted treatment for opiate addiction” is a service that uses methadone or other medication as authorized by state and federal law, in combination with medical, rehabilitative, and counseling services in the treatment of individuals who are dependent on opioid drugs.

8. “Outpatient treatment” is a service that provides individual, group, or family counseling by appointment during scheduled operating hours for individuals who meet the placement criteria for this component.

9. “Residential treatment” is a service provided in a structured live-in environment within a nonhospital setting on a 24-hours-per-day, 7-days-per-week basis, and is intended for individuals who meet the placement criteria for this component.

(b) “Intervention” means structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.

(c) “Prevention” means a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles.

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

~~(f) 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) 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) 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) 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) “Medication-assisted treatment (MAT)” is the use of medications approved by the United States Food and Drug Administration, in combination with counseling and behavioral therapies, to provide a holistic approach to the treatment of substance abuse.

~~(20)~~(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 individuals ~~clients~~ whose subacute ~~biomedical, emotional, psychosocial, behavioral, or cognitive~~ problems are so severe that the individuals ~~clients~~ require intensive inpatient treatment by an interdisciplinary team.

~~(21)~~(20) “Not for profit” means registered as not for profit by the Secretary of State and recognized by the Internal Revenue Service as a not-for-profit entity.

~~(22)~~(21) “Physician” means a person licensed under chapter 458 to practice medicine or licensed under chapter 459 to practice osteopathic medicine, and may include, if the context so indicates, an intern or resident enrolled in an intern or resident training program affiliated with an approved medical school, hospital, or other facility through which training programs are normally conducted.

~~(23)~~ “Physician assistant” means a person licensed under chapter 458 or chapter 459 to practice medicine under the supervision of a physician or psychiatrist whose specialty includes substance abuse treatment.

~~(22)~~ “Preliminary screening” means the gathering of initial information to be used in determining a person’s need for assessment or for referral.

~~(24)~~(23) “Private practitioner” means a physician or a physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a clinical social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

~~(25)~~(24) “Program evaluation” or “evaluation” means a systematic measurement of a service provider’s achievement of desired individual client or service outcomes.

~~(26)~~(25) “Qualified professional” means a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced registered nurse practitioner having a specialty in psychiatry licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor’s degree. A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

~~(27)~~ “Quality improvement” means a systematic and organized approach to monitor and continuously improve the quality of services in order to

maintain, restore, or improve outcomes in individuals and populations throughout a system of care.

(28) “Recovery” means a process of personal change through which individuals achieve abstinence from alcohol or drug use and improve health, wellness, and quality of life.

(29) “Recovery support” means services designed to strengthen or assist individuals to regain skills, develop the environmental supports necessary to help the individual thrive in the community, and meet life goals that promote recovery from alcohol and drug use. These services include, but are not limited to, economic, vocational, employment, educational, housing, and other ancillary services.

(30) “Screening” means the gathering of initial information to be used in determining a person’s need for assessment, services, or referral.

~~(26) “Quality assurance” means the objective and internal systematic monitoring of the appropriateness and quality of client care rendered by a service provider.~~

(31)(27) “Secure facility,” except where the context indicates a correctional system facility, means a provider that has the authority to deter the premature departure of involuntary individuals clients whose leaving constitutes a violation of a court order or community-based supervision as provided by law. The term “secure facility” includes addictions receiving facilities and facilities authorized by local ordinance for the treatment of habitual abusers.

(32) “Service component” or “component” means a discrete operational entity within a service provider which is subject to licensing as defined by rule. Service components include prevention, intervention, and clinical treatment described in subsection (17).

~~(33)(28) “Service provider” or “provider” means a public agency, a private for-profit or not-for-profit agency, a person who is a private practitioner, or a hospital licensed under this chapter or exempt from licensure under this chapter.~~

(34)(29) “Service provider personnel” or “personnel” includes all owners, directors, chief financial officers, staff, and volunteers, including foster parents, of a service provider.

~~(35)(30) “Stabilization” means:~~

- (a) Alleviation of a crisis condition; or
- (b) Prevention of further deterioration,

and connotes short-term emergency treatment.

(36) “Substance abuse” means the misuse or abuse of, or dependence on alcohol, illicit drugs, or prescription medications. As an individual progresses along this continuum of misuse, abuse, and dependence, there is an

increased need for substance abuse intervention and treatment to help abate the problem.

(37) “Substate entity” means a departmental office designated to serve a geographical area specified by the department.

(38) “System of care” means a coordinated continuum of community-based services and supports that are organized to meet the challenges and needs of individuals who are at risk of developing substance abuse problems or individuals who have substance abuse problems.

(39) “Treatment plan” means an immediate and a long-range plan based upon an individual’s assessed needs and used to address and monitor an individual’s recovery from substance abuse.

Section 9. Subsections (2), (7), (14), (17), (18), (19), and (20) of section 397.321, Florida Statutes, are amended to read:

397.321 Duties of the department.—The department shall:

(2) Ensure that a plan for substance abuse services is developed at the local substate entity ~~district~~ level in accordance with the provisions of part IV of chapter 394.

(7) Ensure that each licensed service provider develops a system and procedures for:

- (a) Clinical ~~Client~~ assessment.
- (b) ~~Individualized~~ Treatment ~~or services~~ planning.
- (c) ~~Client~~ Referral.
- (d) ~~Client~~ Progress reviews.
- (e) ~~Client~~ Followup.

(14) In cooperation with service providers, foster and actively seek additional funding to enhance resources for prevention, intervention, clinical and treatment, and recovery support services, including, but not limited to, the development of partnerships with:

- (a) Private industry.
- (b) Intradepartmental and interdepartmental program offices, including, but not limited to, child care services; family safety; delinquency services; health services; economic services; and children’s medical services.

(c) State agencies, including, but not limited to, the Department ~~Departments~~ of Corrections, the Department of Education, the Department of Juvenile Justice, the Department of Community Affairs, the Department of Elderly Affairs, the Department of Health, the Department of Financial Services, and the Agency for Health Care Administration ~~Insurance~~.

(17) Develop a certification process by rule for community substance abuse prevention coalitions.

~~(18)~~<sup>(17)</sup> Provide sufficient and qualified staff to oversee all contracting, licensing, and planning functions within each of its substate ~~district~~ offices, as permitted by legislative appropriation.

~~(19)~~<sup>(18)</sup> Ensure that the department develops and ensures the implementation of procedures between its Substance Abuse Program Office and other departmental programs regarding the referral of substance abuse impaired persons to service providers, information on service providers, information on methods of identifying substance abuse impaired juveniles, and procedures for referring such juveniles to appropriate service providers.

~~(20)~~<sup>(19)</sup> Designate addictions receiving facilities for the purpose of ensuring that only qualified service providers render services within the context of a secure facility setting.

~~(20) The department may establish in District 9, in cooperation with the Palm Beach County Board of County Commissioners, a pilot project to serve in a managed care arrangement non-Medicaid eligible persons who qualify to receive substance abuse or mental health services from the department. The department may contract with a not-for-profit entity to conduct the pilot project. The results of the pilot project shall be reported to the district administrator, and the secretary 18 months after the initiation. The department shall incur no additional administrative costs for the pilot project.~~

Section 10. Paragraph (b) of subsection (1) of section 397.331, Florida Statutes, is amended to read:

397.331 Definitions; legislative intent.—

(1) As used in this act, the term:

(b) “Substance abuse programs and services” or “drug control” applies generally to the broad continuum of prevention, intervention, clinical and treatment, recovery support initiatives, and efforts to limit substance abuse, and ~~also includes~~ initiatives and efforts by law enforcement agencies to limit substance abuse.

Section 11. Subsections (1), (3), and (4) of section 397.401, Florida Statutes, are amended to read:

397.401 License required; penalty; injunction; rules waivers.—

(1) It is unlawful for any person or agency to act as a substance abuse service provider unless it is licensed or exempt from licensure under this chapter.

(3) The department may maintain an action in circuit court to enjoin the unlawful operation of a substance abuse service provider if the department first gives the violator 14 days’ notice of its intent to maintain such action and the violator fails to apply for licensure within that 14-day period. If the department determines that the health, safety, and welfare of individuals

~~are clients~~ is jeopardized, the department may move to enjoin the operation at any time during the 14-day period. If the service provider has already applied for licensure under this chapter and has been denied licensure, the department may move immediately to obtain an injunction.

(4) In accordance with this subsection, the department may waive rules adopted pursuant to this chapter in order to allow service providers to demonstrate and evaluate innovative or cost-effective substance abuse services alternatives. Rules waivers may be granted only in instances where there is reasonable assurance that the health, safety, or welfare of individuals ~~clients~~ will not be endangered. To apply for a rules waiver, the applicant must be a service provider licensed under this chapter and must submit to the department a written description of the concept to be demonstrated, including:

- (a) Objectives and anticipated benefits.
- (b) The number and types of individuals ~~clients~~ who will be affected.
- (c) A description of how the demonstration will be evaluated.
- (d) Any other information requested by the department.

A service provider granted a rules waiver under this subsection must submit a detailed report of the results of its findings to the department within 12 months after receiving the rules waiver. Upon receiving and evaluating the detailed report, the department may renew or revoke the rules waiver or seek any regulatory or statutory changes necessary to allow other service providers to implement the same alternative service.

Section 12. Paragraph (e) of subsection (1) and subsection (3) of section 397.403, Florida Statutes, are amended to read:

397.403 License application.—

(1) Applicants for a license under this chapter must apply to the department on forms provided by the department and in accordance with rules adopted by the department. Applications must include at a minimum:

(e) Sufficient information to conduct background screening as provided in s. 397.451.

1. If the results of the background screening indicate that any owner, director, or chief financial officer has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to any offense prohibited under the screening standard, a license may not be issued to the applicant service provider unless an exemption from disqualification has been granted by the department as set forth in chapter 435. The owner, director, or chief financial officer ~~manager~~ has 90 days within which to obtain the required exemption, during which time the applicant's license remains in effect.

2. If any owner, director, or chief financial officer is arrested or found guilty of, regardless of adjudication, or has entered a plea of nolo contendere

or guilty to any offense prohibited under the screening standard while acting in that capacity, the provider shall immediately remove the person from that position and shall notify the department within 2 days after such removal, excluding weekends and holidays. Failure to remove the owner, director, or chief financial officer ~~manager~~ will result in revocation of the provider's license.

(3) The department shall accept proof of accreditation by the Commission on Accreditation of Rehabilitation Facilities (CARF) ~~CARF—the Rehabilitation Accreditation Commission~~ or the Joint Commission on Accreditation of Health Care Organizations (JCAHCO), or through any other nationally recognized certification process that is acceptable to the department and meets the minimum licensure requirements under this chapter, in lieu of requiring the applicant to submit the information required by paragraphs (1)(a)-(c).

Section 13. Section 397.405, Florida Statutes, is amended to read:

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

- (1) A hospital or hospital-based component licensed under chapter 395.
- (2) A nursing home facility as defined in s. 400.021.
- (3) A substance abuse education program established pursuant to s. 1003.42.
- (4) A facility or institution operated by the Federal Government.
- (5) A physician or physician assistant licensed under chapter 458 or chapter 459.
- (6) A psychologist licensed under chapter 490.
- (7) A social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.
- (8) ~~A An established and~~ legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely exclusively religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed licensable service components itemized under s. 397.311(18) is not exempt from substance abuse licensure for purposes of its provision of such licensable service components but retains its exemption with respect to all services which are solely exclusively religious, spiritual, or ecclesiastical in nature.
- (9) Facilities licensed under chapter 393 which, in addition to providing services to persons with developmental disabilities, also provide services to persons developmentally at risk as a consequence of exposure to alcohol or other legal or illegal drugs while in utero.

(10) DUI education and screening services provided pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons or entities providing treatment services must be licensed under this chapter unless exempted from licensing as provided in this section.

(11) A facility licensed under s. 394.875 as a crisis stabilization unit.

The exemptions from licensure in this section do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, ~~or~~ a psychotherapist licensed under chapter 491, or an advanced registered nurse practitioner licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, ~~or~~ psychotherapist, or advanced registered nurse practitioner does not represent to the public that he or she is a licensed service provider and does not provide services to individuals ~~clients~~ pursuant to part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 14. Section 397.406, Florida Statutes, is amended to read:

397.406 Licensure and regulation of government-operated substance abuse programs.—Substance abuse programs operated directly or under contract by the department, the Department of Corrections, the Department of Juvenile Justice, any other state agency, or any local correctional agency or authority, which programs constitute any service provider licensable components as defined in this chapter, are subject to licensure and regulation in accordance with rules jointly developed by the department and the state or local agency operating the program. The department has authority to promulgate rules exempting such government-operated programs from specific licensure provisions of this part, including, but not limited to, licensure fees and personnel background checks, and to enforce the regulatory requirements governing such programs.

Section 15. Section 397.407, Florida Statutes, is amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish by rule the licensure process to include fees and categories of licenses ~~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 for public and privately funded 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. During adoption of the rule governing the licensure process and fees, the department shall carefully consider the potential adverse impact on small, not-for-profit 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.~~

(2) The department shall assess a fee of \$100 per licensed service component license for the late filing of an application for renewal of a license.

(3) Licensure and renewal fees must be deposited in the Operations and Maintenance Trust Fund to be used for the actual cost of monitoring, inspecting, and overseeing licensed service providers.

(4) Each application for licensure or renewal must be accompanied by the required fee, except that a service provider that has an all-volunteer staff is exempt from the licensure and renewal fees.

(5) The department may issue probationary, regular, and interim licenses. After adopting the rule governing the licensure process and fees, the department shall issue one license for each service component that is operated by a service provider and defined in rule pursuant to s. 397.311(18). The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least 60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

(6) A probationary license may be issued to a service provider applicant in the initial stages of developing services that are not yet fully operational upon completion of all application requirements itemized in s. 397.403(1) and upon demonstration of the applicant's ability to comply with all applicable statutory and regulatory requirements. A probationary license expires 90 days after issuance and may be reissued once for an additional 90-day period if the applicant has substantially complied with all requirements for regular licensure or has initiated action to satisfy all requirements. During the probationary period the department shall monitor the delivery of services. Notwithstanding s. 120.60(5), the department may order a probationary licensee to cease and desist operations at any time it is found to be substantially out of compliance with licensure standards. This cease-and-desist order is exempt from the requirements of s. 120.60(6).

(7) A regular license may be issued to:

(a) A new applicant at the end of the probationary period.

(b) A licensed applicant that holds a regular license and is seeking renewal.

(c) An applicant for a service component operating under an interim license upon successful satisfaction of the requirements for a regular license.

In order to be issued a regular license, the applicant must be in compliance with statutory and regulatory requirements. Standards and timeframes for the issuance of a regular license must be established by rule. An application for renewal of a regular license must be submitted to the department at least 60 days before the license expires.

(8) The department may issue an interim license to a service provider for a period established by the department which does not exceed 90 days if the department finds that:

(a) A service component of the provider is in substantial noncompliance with licensure standards;

(b) The service provider has failed to provide satisfactory proof of conformance to fire, safety, or health requirements; or

(c) The service provider is involved in license suspension or revocation proceedings.

An interim license applies only to the licensable service component of the provider's services which is in substantial noncompliance with statutory or regulatory requirements. An interim license expires 90 days after it is issued; however, it may be reissued once for an additional 90-day period in a case of extreme hardship in which the noncompliance is not attributable to the licensed service provider. If the service provider is appealing the final disposition of license suspension or revocation proceedings, the court before which the appeal is taken may order the extension of the interim license for a period specified in the order.

(9) A separate license is required for each service component maintained by the service provider.

(10) The license must be displayed in a conspicuous place inside the facility providing the licensed service component.

Section 16. Section 397.409, Florida Statutes, is repealed.

Section 17. Subsection (3) of section 397.411, Florida Statutes, is amended, present subsection (5) of that section is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

397.411 Inspection; right of entry; records.—

(3) Notwithstanding the confidentiality provisions of this chapter, a designated and authorized agent of the department may access the records of the individuals served by clients of licensed service providers, but only for purposes of licensing, monitoring, and investigation. The department may interview individuals ~~clients~~, as specified by rule.

(5) In an effort to coordinate inspections among agencies, the department shall notify applicable state agencies of any scheduled licensure inspections of service providers jointly funded by the agencies.

Section 18. Subsections (1), (2), and (4) of section 397.415, Florida Statutes, are amended to read:

397.415 Denial, suspension, and revocation; other remedies.—

(1) If the department determines that an applicant or licensed service provider or licensed service component thereof is not in compliance with all statutory and regulatory requirements, the department may deny, suspend, revoke, or impose reasonable restrictions or penalties on the license or any portion of the license. In such case, the department:

(a) May impose a moratorium on admissions to any service component of a licensed service provider if the department determines that conditions ~~within such component~~ are a threat to the public health or safety.

(b) May impose an administrative penalty of up to \$500 per day against a licensed service provider operating in violation of any fire-related, safety-related, or health-related statutory or regulatory requirement. Fines collected under this paragraph must be deposited in the Operations and Maintenance Substance Abuse Impairment Provider Licensing Trust Fund.

(c) May suspend or revoke the license of a service provider or may suspend or revoke the license as to the operation of any service component or location identified on the license if, after notice, the department ~~it~~ determines that a service provider has failed to correct the substantial or chronic violation of any statutory or regulatory requirement that such as ~~such as~~ impacts the quality of client ~~client~~ care.

(2) If a provider's license is revoked of a facility or any service component of a facility is revoked, the service provider is barred from submitting any application for licensure of the affected facility or service component to the department for a period of 1 year after the revocation. If the provider's license is revoked as to any service component or location identified on the license, the provider is barred from applying for licensure of the affected service component or location for 1 year after the revocation.

(4) The department may maintain an action in court to enjoin the operation of any licensed or unlicensed provider, service component, or location ~~facility~~ in violation of this chapter or the rules adopted under this chapter.

Section 19. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.— 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(26)~~ s. 397.311(25).

Section 20. Section 397.419, Florida Statutes, is amended to read:

397.419 Quality improvement assurance programs.—

(1) Each service provider must maintain ~~a an ongoing quality improvement assurance~~ program to objectively and systematically monitor and evaluate the appropriateness and quality of ~~client~~ care, to ensure that services are rendered consistent with prevailing professional standards, and to identify and resolve problems.

(2) For each service provider, a written plan must be developed with a copy ~~made available upon request submitted~~ to the department which addresses the minimum guidelines for the provider's quality improvement assurance program, including, but not limited to:

- (a) Individual Client care and services standards.
- (b) Individual Client records maintenance procedures.
- (c) Staff development policies and procedures.
- (d) Service-environment Facility safety and maintenance standards.
- (e) Peer review and utilization management review procedures.

(f) Incident reporting policies and procedures ~~that include, including~~ verification of corrective action, ~~and~~ provision for reporting to the department within a time period prescribed by rule, documentation that incident reporting is the affirmative duty of all staff, and a provision that specifies that a person who files an incident report may not be subjected to any civil action by virtue of that incident report.

(3) The quality improvement assurance program is the responsibility of the director and is subject to review and approval by the governing board of the service provider.

(4) Each director shall designate a person who is an employee of or under contract with the service provider as the provider's quality improvement assurance manager.

~~(5) Incident reporting is the affirmative duty of all staff.~~

~~(6) A person who files an incident report may not be subjected to any civil action by virtue of that incident report.~~

~~(5)(7)~~ The department may access all service provider records necessary to determine compliance with this section. Records relating solely to actions taken in carrying out this section and records obtained by the department

to determine a provider's compliance with this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such records are not admissible in any civil or administrative action except in disciplinary proceedings by the Department of Health Business and Professional Regulation or the appropriate regulatory board, and are not part of the record of investigation and prosecution in disciplinary proceedings made available to the public by the Department of Health Business and Professional Regulation or the appropriate regulatory board. Meetings or portions of meetings of quality improvement assurance program committees that relate solely to actions taken pursuant to this section are exempt from s. 286.011.

~~(6)~~(8) The quality improvement assurance program must also ~~shall be implemented as part of the department's contract management process. The quality assurance program shall:~~

~~(a)~~ Track performance measures and standards established by the Legislature as part of the performance-based program budgeting process;

~~(a)~~(b) Provide a framework for evaluating outcomes which is separate from the performance-based program budgeting process, including:

1. Output measures, such as capacities, technologies, and infrastructure, that make up the system of care.

2. Process measures, such as administrative and clinical components of treatment.

3. Outcome measures pertaining to the outcomes of services;

~~(b)~~(e) Provide for a system of analyzing those factors which have an effect on performance at the local level;

~~(c)~~(d) Provide for a system of reporting the results of quality improvement assurance reviews; and

~~(d)~~(e) Incorporate best practice models for use in improving performance in those areas which are deficient.

~~(9)~~ The quality assurance program shall incorporate a peer review process into its protocol, to include:

~~(a)~~ Reviews of providers by departmental district staff and other providers.

~~(b)~~ Reviews of individual districts by other districts.

~~(7)~~(10) Contingent upon specific appropriation, a quality improvement assurance coordinator position shall be established within each substate entity service district to oversee the implementation and operation of the quality improvement assurance program.

Section 21. Section 397.427, Florida Statutes, is amended to read:

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

(1) ~~Medication treatment service~~ Providers of medication-assisted treatment services for opiate addiction may not be licensed unless they provide supportive rehabilitation programs. Supportive rehabilitation programs include, but are not limited to, counseling, therapy, and vocational rehabilitation.

(2) The department shall determine the need for establishing ~~medication treatment service~~ providers of medication-assisted treatment services for opiate addiction.

(a) ~~Medication treatment service~~ Providers of medication-assisted treatment services for opiate addiction may be established only in response to the department's determination and publication of need for additional medication treatment services.

(b) The department shall prescribe by rule the types of medication-assisted medication treatment services for opiate addiction for which it is necessary to conduct annual assessments of need. If needs assessment is required, the department shall annually conduct the assessment and publish a statement of findings which identifies each substate entity's ~~district's~~ need.

(c) Notwithstanding paragraphs (a) and (b), the license for medication-assisted medication treatment programs for opiate addiction licensed before October 1, 1990, may not be revoked solely because of the department's determination concerning the need for medication-assisted medication treatment services for opiate addiction.

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

(a) Determining the need for additional medication-assisted medication treatment services for opiate addiction.

(b) Selecting ~~medication treatment service~~ providers for medication-assisted treatment services for opiate addiction when the number of responses to a publication of need exceeds the determined need.

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

(4) A service provider operating in violation of this section is subject to proceedings in accordance with this chapter to enjoin that unlawful operation.

(5) Notwithstanding ~~the provisions of~~ s. 465.019(2), a physician assistant, a registered nurse, an advanced registered nurse practitioner, or a

licensed practical nurse working for a licensed service provider ~~may be authorized to deliver takeout medication for opiate treatment methadone to persons enrolled in a methadone maintenance treatment program for medication-assisted treatment for opiate addiction if provided that:~~

(a) ~~The medication-assisted methadone maintenance treatment program for opiate addiction has an appropriate valid permit issued pursuant to rules adopted promulgated by the Board of Pharmacy;~~

(b) ~~The medication for treatment of opiate addiction has been delivered pursuant to a valid prescription written by the program's physician licensed pursuant to chapter 458 or chapter 459;~~

(c) ~~The medication for treatment of opiate addiction which is ordered appears on a formulary and is prepackaged and prelabeled with dosage instructions and distributed from a source authorized under chapter 499;~~

(d) ~~Each licensed provider adopts written protocols which provide for supervision of the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse by a physician licensed pursuant to chapter 458 or chapter 459 and for the procedures by which patients' medications may be delivered by the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse. Such protocols shall be signed by the supervising physician and either the administering registered nurse, the advanced registered nurse practitioner, or the licensed practical nurse.~~

(e) ~~Each licensed service provider maintains and has available for inspection by representatives of the Board of Pharmacy all medical records and patient care protocols, including records of medications delivered to patients, in accordance with the board.~~

(6) The department shall also determine the need for establishing medication-assisted treatment for substance-use disorders other than opiate dependence. Service providers within the publicly funded system shall be funded for provision of these services based on the availability of funds.

(7) Service providers that provide medication-assisted treatment for substance abuse other than opiate dependence shall provide counseling services in conjunction with medication-assisted treatment.

(8) The department shall adopt rules necessary to administer medication-assisted treatment services, including, but not limited to, rules prescribing criteria and procedures for:

(a) Determining the need for medication-assisted treatment services within the publicly funded system.

(b) Selecting medication-assisted service providers within the publicly funded system.

(c) Administering any federally required rules, regulations, or procedures related to the provision of medication-assisted treatment.

(9) A physician assistant, registered nurse, an advanced registered nurse practitioner, or a licensed practical nurse working for a licensed service provider may deliver medication as prescribed by rule if:

(a) The service provider is authorized to provide medication-assisted treatment;

(b) The medication has been administered pursuant to a valid prescription written by the program's physician who is licensed under chapter 458 or chapter 459; and

(c) The medication ordered appears on a formulary or meets federal requirements for medication-assisted treatment.

(10) Each licensed service provider that provides medication-assisted treatment must adopt written protocols as specified by the department and in accordance with federally required rules, regulations, or procedures. The protocol shall provide for the supervision of the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse working under the supervision of a physician who is licensed under chapter 458 or chapter 459. The protocol must specify how the medication will be used in conjunction with counseling or psychosocial treatment and that the services provided will be included on the treatment plan. The protocol must specify the procedures by which medication-assisted treatment may be administered by the physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse. These protocols shall be signed by the supervising physician and the administering physician assistant, registered nurse, advanced registered nurse practitioner, or licensed practical nurse.

(11) Each licensed service provider shall maintain and have available for inspection by representatives of the Board of Pharmacy all medical records and protocols, including records of medications delivered to individuals in accordance with rules of the board.

Section 22. Section 397.431, Florida Statutes, is amended to read:

397.431 Individual Client responsibility for cost of substance abuse impairment services.—

(1) Before ~~Prior to~~ accepting an individual a client for admission and in accordance with confidentiality guidelines, both the full charge for services and the fee charged to the individual client for such services under the provider's fee system or payment policy must be disclosed to each individual client or his or her authorized personal representative, or parent or legal guardian if the individual client is a minor who did not seek treatment voluntarily and without parental consent.

(2) An individual A client or his or her authorized personal representative, or parent or legal guardian if the individual client is a minor, is required to contribute toward the cost of substance abuse services in accordance with his or her ability to pay, unless otherwise provided by law.

(3) The parent, legal guardian, or legal custodian of a minor is not liable for payment for any substance abuse services provided to the minor without parental consent pursuant to s. 397.601(4), unless the parent, legal guardian, or legal custodian participates or is ordered to participate in the services, and only for the substance abuse services rendered. If the minor is receiving services as a juvenile offender, the obligation to pay is governed by the law relating to juvenile offenders.

(4) Service providers that do not contract for state funds to provide substance abuse services as defined in this chapter may establish their own admission policies regarding provisions for payment for services. Such policies must comply with other statutory and regulatory requirements governing state or federal reimbursements to a provider for services delivered to individuals ~~individual clients~~. As used in this subsection, the term “contract for state funds” does not include Medicaid funds.

(5) Service providers that contract for state funds to provide substance abuse services as defined in this chapter must establish a fee system based upon an individual’s ~~a client’s~~ ability to pay and, if space and sufficient state resources are available, may not deny an individual ~~a client~~ access to services solely on the basis of the individual’s ~~client’s~~ inability to pay.

Section 23. Paragraphs (a) and (e) of subsection (1) of section 397.451, Florida Statutes, are amended to read:

397.451 Background checks of service provider personnel.—

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

(a) Background checks shall apply as follows:

1. All owners, directors, and chief financial officers of service providers are subject to level 2 background screening as provided under 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 chapter 435.

(e) Personnel employed directly or under contract with ~~by~~ the Department of Corrections in an inmate substance abuse program ~~a substance abuse service component~~ who have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled are exempt from the fingerprinting and background check requirements of this section.

Section 24. Paragraphs (a) and (b) of subsection (1) of section 397.471, Florida Statutes, are amended to read:

397.471 Service provider facility standards.—

(1) Each service provider must ensure:

(a) Sufficient numbers and types of qualified personnel on duty and available to provide necessary and adequate ~~client~~ safety and care.

(b) Adequate space for each individual served within ~~client~~ of a residential facility.

Section 25. Section 397.501, Florida Statutes, is amended to read:

397.501 Rights of individuals ~~clients~~.—Individuals ~~Clients~~ receiving substance abuse services from any service provider are guaranteed protection of the rights specified in this section, unless otherwise expressly provided, and service providers must ensure the protection of such rights.

(1) RIGHT TO INDIVIDUAL DIGNITY.—The ~~individual~~ dignity of the individual served ~~client~~ must be respected at all times and upon all occasions, including any occasion when the individual ~~client~~ is admitted, retained, or transported. Individuals served ~~Substance abuse clients~~ who are not accused of a crime or delinquent act may not be detained or incarcerated in jails, detention centers, or training schools of the state, except for purposes of protective custody in strict accordance with this chapter. An individual ~~A client~~ may not be deprived of any constitutional right.

(2) RIGHT TO NONDISCRIMINATORY SERVICES.—

(a) Service providers may not deny an individual ~~a client~~ access to substance abuse services solely on the basis of race, gender, ethnicity, age, sexual preference, human immunodeficiency virus status, prior service departures against medical advice, disability, or number of relapse episodes. Service providers may not deny an individual ~~a client~~ who takes medication prescribed by a physician access to substance abuse services solely on that basis. Service providers who receive state funds to provide substance abuse services may not, ~~if provided~~ if provided space and sufficient state resources are available, deny ~~a client~~ access to services based solely on inability to pay.

(b) Each individual ~~client~~ in treatment must be afforded the opportunity to participate in the formulation and periodic review of his or her individualized treatment or service plan to the extent of his or her ability to so participate.

(c) It is the policy of the state to use the least restrictive and most appropriate services available, based on the needs and the best interests of the individual ~~client~~ and consistent with optimum care of the individual ~~client~~.

(d) Each individual ~~client~~ must be afforded the opportunity to participate in activities designed to enhance self-image.

(3) RIGHT TO QUALITY SERVICES.—

(a) Each individual ~~client~~ must be delivered services suited to his or her needs, administered skillfully, safely, humanely, with full respect for his or

her dignity and personal integrity, and in accordance with all statutory and regulatory requirements.

(b) These services must include the use of methods and techniques to control aggressive ~~client~~ behavior that poses an immediate threat to the individual client or to other persons. Such methods and techniques include the use of restraints, the use of seclusion, the use of time-out, and other behavior management techniques. When authorized, these methods and techniques may be applied only by persons who are employed by service providers and trained in the application and use of these methods and techniques. The department must specify by rule the methods that may be used and the techniques that may be applied by service providers to control aggressive ~~client~~ behavior and must specify by rule the physical facility requirements for seclusion rooms, including dimensions, safety features, methods of observation, and contents.

(4) RIGHT TO COMMUNICATION.—

(a) Each individual client has the right to communicate freely and privately with other persons within the limitations imposed by service provider policy.

(b) Because the delivery of services can only be effective in a substance abuse free environment, close supervision of each individual's client's communications and correspondence is necessary, particularly in the initial stages of treatment, and the service provider must therefore set reasonable rules for telephone, mail, and visitation rights, giving primary consideration to the well-being and safety of individuals clients, staff, and the community. It is the duty of the service provider to inform the individual client and his or her family if the family is involved at the time of admission about the provider's rules relating to communications and correspondence.

(5) RIGHT TO CARE AND CUSTODY OF PERSONAL EFFECTS OF CLIENTS.—~~An individual A-client~~ has the right to possess clothing and other personal effects. The service provider may take temporary custody of the individual's client's personal effects only when required for medical or safety reasons, with the reason for taking custody and a list of the personal effects recorded in the individual's client's clinical record.

(6) RIGHT TO EDUCATION OF MINORS.—Each minor ~~client~~ in a residential service component is guaranteed education and training appropriate to his or her needs. The service provider shall coordinate with local education agencies to ensure that education and training is provided to each minor ~~client~~ in accordance with other applicable laws and regulations and that parental responsibilities related to such education and training are established within the provisions of such applicable laws and regulations. ~~Nothing in This chapter does not may be construed to relieve any local education authority of its obligation under law to provide a free and appropriate education to every child.~~

(7) RIGHT TO CONFIDENTIALITY OF INDIVIDUAL CLIENT RECORDS.—

(a) The records of service providers which pertain to the identity, diagnosis, and prognosis of and service provision to any individual ~~client~~ are confidential in accordance with this chapter and with applicable federal confidentiality regulations and are exempt from ~~the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~ Such records may not be disclosed without the written consent of the individual client to whom they pertain except that appropriate disclosure may be made without such consent:

1. To medical personnel in a medical emergency.
2. To service provider personnel if such personnel need to know the information in order to carry out duties relating to the provision of services to an individual a-client.
3. To the secretary of the department or the secretary's designee, for purposes of scientific research, in accordance with federal confidentiality regulations, but only upon agreement in writing that the individual's client's name and other identifying information will not be disclosed.
4. In the course of review of service-provider records ~~on service provider premises~~ by persons who are performing an audit or evaluation on behalf of any federal, state, or local government agency, or third-party payor providing financial assistance or reimbursement to the service provider; however, reports produced as a result of such audit or evaluation may not disclose ~~client~~ names or other identifying information and must be in accordance ~~accord~~ with federal confidentiality regulations.
5. Upon court order based on application showing good cause for disclosure. In determining whether there is good cause for disclosure, the court shall examine whether the public interest and the need for disclosure outweigh the potential injury to the individual client, to the service provider and the individual provider-client relationship, and to the service provider itself.

(b) The restrictions on disclosure and use in this section do not apply to communications from provider personnel to law enforcement officers which:

1. Are directly related to an individual's a-client's commission of a crime on the premises of the provider or against provider personnel or to a threat to commit such a crime; and
2. Are limited to the circumstances of the incident, including the ~~client~~ status of the individual committing or threatening to commit the crime, that individual's name and address, and that individual's last known whereabouts.

(c) The restrictions on disclosure and use in this section do not apply to the reporting of incidents of suspected child abuse and neglect to the appropriate state or local authorities as required by law. However, such restrictions continue to apply to the original substance abuse ~~client~~ records maintained by the provider, including their disclosure and use for civil or criminal proceedings which may arise out of the report of suspected child abuse and neglect.

(d) Any answer to a request for a disclosure of individual client records which is not permissible under this section or under the appropriate federal regulations must be made in a way that will not affirmatively reveal that an identified individual has been, or is being diagnosed or treated for substance abuse. The regulations do not restrict a disclosure that an identified individual is not and has never received services ~~has been a client~~.

(e)1. Since a minor acting alone has the legal capacity to voluntarily apply for and obtain substance abuse treatment, any written consent for disclosure may be given only by the minor ~~client~~. This restriction includes, but is not limited to, any disclosure of ~~client~~ identifying information to the parent, legal guardian, or custodian of a minor ~~client~~ for the purpose of obtaining financial reimbursement.

2. When the consent of a parent, legal guardian, or custodian is required under this chapter in order for a minor to obtain substance abuse treatment, any written consent for disclosure must be given by both the minor and the parent, legal guardian, or custodian.

(f) An order of a court of competent jurisdiction authorizing disclosure and use of confidential information is a unique kind of court order. Its only purpose is to authorize a disclosure or use of ~~client~~ identifying information which would otherwise be prohibited by this section. Such an order does not compel disclosure. A subpoena or a similar legal mandate must be issued in order to compel disclosure. This mandate may be entered at the same time as, and accompany, an authorizing court order entered under this section.

(g) An order authorizing the disclosure of an individual's client records may be applied for by any person having a legally recognized interest in the disclosure which is sought. The application may be filed separately or as part of a pending civil action in which it appears that the individual's client records are needed to provide evidence. An application must use a fictitious name, such as John Doe or Jane Doe, to refer to any individual client and may not contain or otherwise disclose any ~~client~~ identifying information unless the individual client is the applicant or has given a written consent to disclosure or the court has ordered the record of the proceeding sealed from public scrutiny.

(h) The individual client and the person holding the records from whom disclosure is sought must be given adequate notice in a manner which will not disclose ~~client~~ identifying information to other persons, and an opportunity to file a written response to the application, or to appear in person, for the limited purpose of providing evidence on the statutory and regulatory criteria for the issuance of the court order.

(i) Any oral argument, review of evidence, or hearing on the application must be held in the judge's chambers or in some manner which ensures that ~~client~~ identifying information is not disclosed to anyone other than a party to the proceeding, the individual client, or the person holding the record, unless the individual client requests an open hearing. The proceeding may include an examination by the judge of the ~~client~~ records referred to in the application.

(j) A court may authorize the disclosure and use of ~~client~~ records for the purpose of conducting a criminal investigation or prosecution of an individual ~~a client~~ only if the court finds that all of the following criteria are met:

1. The crime involved is extremely serious, such as one which causes or directly threatens loss of life or serious bodily injury, including but not limited to homicide, sexual assault, sexual battery, kidnapping, armed robbery, assault with a deadly weapon, and child abuse and neglect.

2. There is reasonable likelihood that the records will disclose information of substantial value in the investigation or prosecution.

3. Other ways of obtaining the information are not available or would not be effective.

4. The potential injury to the individual client, to the physician-individual physician-client relationship and to the ability of the program to provide services to other individuals clients is outweighed by the public interest and the need for the disclosure.

(8) RIGHT TO COUNSEL.—Each individual client must be informed that he or she has the right to be represented by counsel in any involuntary proceeding for assessment, stabilization, or treatment and that he or she, or if the individual client is a minor his or her parent, legal guardian, or legal custodian, may apply immediately to the court to have an attorney appointed if he or she cannot afford one.

(9) RIGHT TO HABEAS CORPUS.—At any time, and without notice, an individual a client involuntarily retained by a provider, or the individual's client's parent, guardian, custodian, or attorney on behalf of the individual client, may petition for a writ of habeas corpus to question the cause and legality of such retention and request that the court issue a writ for the individual's client's release.

(10) LIABILITY AND IMMUNITY.—

(a) Service provider personnel who violate or abuse any right or privilege of an individual a client under this chapter are liable for damages as determined by law.

(b) All persons acting in good faith, reasonably, and without negligence in connection with the preparation or execution of petitions, applications, certificates, or other documents or the apprehension, detention, discharge, examination, transportation, or treatment of a person under the provisions of this chapter shall be free from all liability, civil or criminal, by reason of such acts.

Section 26. Section 397.581, Florida Statutes, is amended to read:

397.581 Unlawful activities relating to ~~client~~ assessment and treatment; penalties.—

(1) Knowingly furnishing false information for the purpose of obtaining emergency or other involuntary admission for any person is a misdemeanor

of the first degree, punishable as provided in s. 775.082 and by a fine not exceeding \$5,000.

(2) Causing or otherwise securing, or conspiring with or assisting another to cause or secure, without reason for believing a person to be impaired, any emergency or other involuntary procedure for the person is a misdemeanor of the first degree, punishable as provided in s. 775.082 and by a fine not exceeding \$5,000.

(3) Causing, or conspiring with or assisting another to cause, the denial to any person of any right accorded pursuant to this chapter is a misdemeanor of the first degree, punishable as provided in s. 775.082 and by a fine not exceeding \$5,000.

Section 27. Paragraph (a) of subsection (4) of section 397.601, Florida Statutes, is amended to read:

397.601 Voluntary admissions.—

(4)(a) The disability of minority for persons under 18 years of age is removed solely for the purpose of obtaining voluntary substance abuse impairment services from a licensed service provider, and consent to such services by a minor has the same force and effect as if executed by an individual a client who has reached the age of majority. Such consent is not subject to later disaffirmance based on minority.

Section 28. Subsections (1) and (3) of section 397.6751, Florida Statutes, are amended to read:

397.6751 Service provider responsibilities regarding involuntary admissions.—

(1) It is the responsibility of the service provider to:

(a) Ensure that a person who is admitted to a licensed service component meets the admission criteria specified in s. 397.675;

(b) Ascertain whether the medical and behavioral conditions of the person, as presented, are beyond the safe management capabilities of the service provider;

(c) Provide for the admission of the person to the service component that represents the least restrictive available setting that is responsive to the person's treatment needs;

(d) Verify that the admission of the person to the service component does not result in a census in excess of its licensed service capacity;

(e) Determine whether the cost of services is within the financial means of the person or those who are financially responsible for the person's care; and

(f) Take all necessary measures to ensure that each individual client in treatment is provided with a safe environment, and to ensure that each

individual client whose medical condition or behavioral problem becomes such that he or she cannot be safely managed by the service component is discharged and referred to a more appropriate setting for care.

(3) When, in the judgment of the service provider, the medical conditions or behavioral problems of an involuntary individual client become such that they cannot be safely managed by the service component, the service provider must discharge the individual client and attempt to assist him or her in securing more appropriate services in a setting more responsive to his or her needs. Upon completing these efforts, the service provider must, within 72 hours, report in writing to the referral source, in compliance with federal confidentiality regulations:

(a) The basis for the individual's client's discharge;<sup>3</sup> and

(b) Documentation of the service provider's efforts to assist the person in gaining access to appropriate services.

Section 29. Section 397.6752, Florida Statutes, is amended to read:

397.6752 Referral of involuntarily admitted individual client for voluntary treatment.—Upon giving his or her written informed consent, an involuntarily admitted individual client may be referred to a service provider for voluntary admission when the service provider determines that the individual client no longer meets involuntary criteria.

Section 30. Section 397.6758, Florida Statutes, is amended to read:

397.6758 Release of individual client from protective custody, emergency admission, involuntary assessment, involuntary treatment, and alternative involuntary assessment of a minor.—~~An individual A-client~~ involuntarily admitted to a licensed service provider may be released without further order of the court only by a qualified professional in a hospital, a detoxification facility, an addictions receiving facility, or any less restrictive treatment component. Notice of the release must be provided to the applicant in the case of an emergency admission or an alternative involuntary assessment for a minor, or to the petitioner and the court if the involuntary assessment or treatment was court ordered. In the case of a minor ~~client~~, the release must be:

(1) To the individual's client's parent, legal guardian, or legal custodian or the authorized designee thereof;

(2) To the Department of Children and Family Services pursuant to s. 39.401; or

(3) To the Department of Juvenile Justice pursuant to s. 984.13.

Section 31. Section 397.6773, Florida Statutes, is amended to read:

397.6773 Dispositional alternatives after protective custody.—

(1) An individual A-client who is in protective custody must be released by a qualified professional when:

- (a) The individual client no longer meets the involuntary admission criteria in s. 397.675(1);
- (b) The 72-hour period has elapsed; or
- (c) The individual client has consented to remain voluntarily at the licensed service provider.

(2) An individual A-client may only be retained in protective custody beyond the 72-hour period when a petition for involuntary assessment or treatment has been initiated. The timely filing of the petition authorizes the service provider to retain physical custody of the individual client pending further order of the court.

Section 32. Section 397.6797, Florida Statutes, is amended to read:

397.6797 Dispositional alternatives after emergency admission.—Within 72 hours after an emergency admission to a hospital or a licensed detoxification or addictions receiving facility, the individual client must be assessed by the attending physician to determine the need for further services. Within 5 days after an emergency admission to a nonresidential component of a licensed service provider, the individual client must be assessed by a qualified professional to determine the need for further services. Based upon that assessment, a qualified professional of the hospital, detoxification facility, or addictions receiving facility, or a qualified professional if a less restrictive component was used, must either:

(1) Release the individual client and, where appropriate, refer the individual client to other needed services; or

(2) Retain the individual client when:

(a) The individual client has consented to remain voluntarily at the licensed provider; or

(b) A petition for involuntary assessment or treatment has been initiated, the timely filing of which authorizes the service provider to retain physical custody of the individual client pending further order of the court.

Section 33. Section 397.6799, Florida Statutes, is amended to read:

397.6799 Disposition of minor client upon completion of alternative involuntary assessment.—A minor who has been assessed pursuant to s. 397.6798 must, within the time specified, be released or referred for further voluntary or involuntary treatment, whichever is most appropriate to the needs of the minor.

Section 34. Section 397.6819, Florida Statutes, is amended to read:

397.6819 Involuntary assessment and stabilization; responsibility of licensed service provider.—A licensed service provider may admit an individual a-client for involuntary assessment and stabilization for a period not to exceed 5 days. The individual client must be assessed without unnecessary

delay by a qualified professional. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician before ~~prior to~~ the end of the assessment period.

Section 35. Section 397.6821, Florida Statutes, is amended to read:

397.6821 Extension of time for completion of involuntary assessment and stabilization.—If a licensed service provider is unable to complete the involuntary assessment and, if necessary, stabilization of an individual a client within 5 days after the court's order, it may, within the original time period, file a written request for an extension of time to complete its assessment, and shall, in accordance with confidentiality requirements, furnish a copy to all parties. With or without a hearing, the court may grant additional time, not to exceed 7 days after the date of the renewal order, for the completion of the involuntary assessment and stabilization of the individual client. The original court order authorizing the involuntary assessment and stabilization, or a request for an extension of time to complete the assessment and stabilization that is timely filed pursuant to this section, constitutes legal authority to involuntarily hold the individual client for a period not to exceed 10 days in the absence of a court order to the contrary.

Section 36. Section 397.6822, Florida Statutes, is amended to read:

397.6822 Disposition of individual client after involuntary assessment.—Based upon the involuntary assessment, a qualified professional of the hospital, detoxification facility, or addictions receiving facility, or a qualified professional when a less restrictive component has been used, must:

- (1) Release the individual client and, where appropriate, refer the individual client to another treatment facility or service provider, or to community services;
- (2) Allow the individual client, with consent if the client has consented, to remain voluntarily at the licensed provider; or
- (3) Retain the individual client when a petition for involuntary treatment has been initiated, the timely filing of which authorizes the service provider to retain physical custody of the individual client pending further order of the court.

Adhering to federal confidentiality regulations, notice of disposition must be provided to the petitioner and to the court.

Section 37. Subsections (1) and (3) of section 397.697, Florida Statutes, are amended to read:

397.697 Court determination; effect of court order for involuntary substance abuse treatment.—

- (1) When the court finds that the conditions for involuntary substance abuse treatment have been proved by clear and convincing evidence, it may order the respondent to undergo involuntary treatment by a licensed service provider for a period not to exceed 60 days. If the court finds it necessary,

it may direct the sheriff to take the respondent into custody and deliver him or her to the licensed service provider specified in the court order, or to the nearest appropriate licensed service provider, for involuntary treatment. When the conditions justifying involuntary treatment no longer exist, the individual client must be released as provided in s. 397.6971. When the conditions justifying involuntary treatment are expected to exist after 60 days of treatment, a renewal of the involuntary treatment order may be requested pursuant to s. 397.6975 prior to the end of the 60-day period.

(3) An involuntary treatment order authorizes the licensed service provider to require the individual client to undergo such treatment as will benefit him or her, including treatment at any licensable service component of a licensed service provider.

Section 38. Section 397.6971, Florida Statutes, is amended to read:

397.6971 Early release from involuntary substance abuse treatment.—

(1) At any time prior to the end of the 60-day involuntary treatment period, or prior to the end of any extension granted pursuant to s. 397.6975, an individual a client admitted for involuntary treatment may be determined eligible for discharge to the most appropriate referral or disposition for the individual client when:

(a) The individual client no longer meets the criteria for involuntary admission and has given his or her informed consent to be transferred to voluntary treatment status;

(b) If the individual client was admitted on the grounds of likelihood of infliction of physical harm upon himself or herself or others, such likelihood no longer exists; or

(c) If the individual client was admitted on the grounds of need for assessment and stabilization or treatment, accompanied by inability to make a determination respecting such need, either:

1. Such inability no longer exists; or

2. It is evident that further treatment will not bring about further significant improvements in the individual's client's condition;

(d) The individual client is no longer in need of services; or

(e) The director of the service provider determines that the individual client is beyond the safe management capabilities of the provider.

(2) Whenever a qualified professional determines that an individual client admitted for involuntary treatment is ready for early release for any of the reasons listed in subsection (1), the service provider shall immediately discharge the individual client, and must notify all persons specified by the court in the original treatment order.

Section 39. Section 397.6975, Florida Statutes, is amended to read:

397.6975 Extension of involuntary substance abuse treatment period.—

(1) Whenever a service provider believes that an individual ~~a client~~ who is nearing the scheduled date of release from involuntary treatment continues to meet the criteria for involuntary treatment in s. 397.693, a petition for renewal of the involuntary treatment order may be filed with the court at least 10 days ~~before~~ ~~prior to~~ the expiration of the court-ordered treatment period. The court shall immediately schedule a hearing to be held not more than 15 days after filing of the petition. The court shall provide the copy of the petition for renewal and the notice of the hearing to all parties to the proceeding. The hearing is conducted pursuant to s. 397.6957.

(2) If the court finds that the petition for renewal of the involuntary treatment order should be granted, it may order the respondent to undergo involuntary treatment for a period not to exceed an additional 90 days. When the conditions justifying involuntary treatment no longer exist, the individual ~~client~~ must be released as provided in s. 397.6971. When the conditions justifying involuntary treatment continue to exist after 90 days of additional treatment, a new petition requesting renewal of the involuntary treatment order may be filed pursuant to this section.

Section 40. Section 397.6977, Florida Statutes, is amended to read:

397.6977 Disposition of individual ~~client~~ upon completion of involuntary substance abuse treatment.—At the conclusion of the 60-day period of court-ordered involuntary treatment, the individual ~~client~~ is automatically discharged unless a motion for renewal of the involuntary treatment order has been filed with the court pursuant to s. 397.6975.

Section 41. Paragraph (e) of subsection (2) of section 397.702, Florida Statutes, is amended to read:

397.702 Authorization of local ordinances for treatment of habitual abusers in licensed secure facilities.—

(2) Ordinances for the treatment of habitual abusers must provide:

(e) That, if the individual ~~client~~ still meets the criteria for involuntary admission in s. 397.675 at or near the expiration of the treatment period ordered by the court pursuant to paragraph (d), the agent of the county or municipality may file another habitual abuser petition pursuant to paragraph (b) for a period not exceeding 180 days for each such petition.

Section 42. Subsections (2) and (3) of section 397.706, Florida Statutes, are amended to read:

397.706 Screening, assessment, and disposition of juvenile offenders.—

(2) The juvenile and circuit courts, in conjunction with department ~~sub-~~ state entity ~~district~~ administration, shall establish policies and procedures to ensure that juvenile offenders are appropriately screened for substance abuse problems and that diversionary and adjudicatory proceedings include appropriate conditions and sanctions to address substance abuse problems. Policies and procedures must address:

(a) The designation of local service providers responsible for screening and assessment services and dispositional recommendations to the department and the court.

(b) The means by which juvenile offenders are processed to ensure participation in screening and assessment services.

(c) The role of the court in securing assessments when juvenile offenders or their families are noncompliant.

(d) Safeguards to ensure that information derived through screening and assessment is used solely to assist in dispositional decisions and not for purposes of determining innocence or guilt.

(3) Because resources available to support screening and assessment services are limited, the judicial circuits and department substate entity district administration must develop those capabilities to the extent possible within available resources according to the following priorities:

(a) Juvenile substance abuse offenders.

(b) Juvenile offenders who are substance abuse impaired at the time of the offense.

(c) Second or subsequent juvenile offenders.

(d) Minors taken into custody.

Section 43. Subsection (2) of section 397.801, Florida Statutes, is amended to read:

397.801 Substance abuse impairment coordination.—

(2) The department shall establish, within each of its substate entities ~~service districts~~, the full-time position of substance abuse impairment prevention coordinator, to be filled by a person with expertise in the area of substance abuse impairment. The primary responsibility of this person is to develop and implement activities which foster the prevention of substance abuse impairment.

Section 44. Subsections (1) and (3) of section 397.821, Florida Statutes, are amended to read:

397.821 Juvenile substance abuse impairment prevention and early intervention councils.—

(1) Each judicial circuit as set forth in s. 26.021 may establish a juvenile substance abuse impairment prevention and early intervention council composed of at least 12 members, including representatives from law enforcement, the department, school districts, state attorney and public defender offices, the circuit court, the religious community, substance abuse impairment professionals, child advocates from the community, business leaders, parents, and high school students. However, those circuits which already have in operation a council of similar composition may designate the existing body as the juvenile substance abuse impairment prevention and early

intervention council for the purposes of this section. Each council shall establish bylaws providing for the length of term of its members, but the term may not exceed 4 years. The substate entity ~~district~~ administrator, as defined in s. 20.19, and the chief judge of the circuit court shall each appoint six members of the council. The substate entity ~~district~~ administrator shall appoint a representative from the department, a school district representative, a substance abuse impairment treatment professional, a child advocate, a parent, and a high school student. The chief judge of the circuit court shall appoint a business leader and representatives from the state attorney's office, the public defender's office, the religious community, the circuit court, and law enforcement agencies.

(3) The council shall provide recommendations to the Program Director for Substance Abuse annually for consideration for inclusion in the substance abuse ~~district alcohol, drug abuse~~, and mental health substate entity plans.

Section 45. Subsection (1), paragraph (c) of subsection (2), and subsection (3) of section 397.94, Florida Statutes, are amended to read:

397.94 Children's substance abuse services; information and referral network.—

(1) Each substate entity ~~service district~~ of the department shall develop a plan for and implement a ~~districtwide~~ comprehensive children's substance abuse information and referral network to be operational by July 1, 2000.

(2) The substate entity ~~district~~ shall determine the most cost-effective method for delivering this service and may select a new provider or utilize an existing provider or providers with a record of success in providing information and referral services.

(c) Develop and implement procedures for documenting requests for services, including, but not limited to:

1. Number of calls by type of service requested, if any;
2. Ages of children for whom services are requested; and
3. Disposition on all referrals, including location of resource if referred for ~~face-to-face~~ screening.

(3) In planning the information and referral network, the substate entity ~~district~~ shall consider the establishment of a 24-hour toll-free telephone number to call for information and a public service campaign to inform the public about the information and referral service.

Section 46. Section 397.95, Florida Statutes, is amended to read:

397.95 Children's substance abuse services; services provided by licensed providers.—Each substate entity ~~service district~~ of the department shall ensure that all screening, intake, assessment, enrollment, service planning, and case management services provided under this part are provided by

children's substance abuse services providers licensed under part II of this chapter and in accordance with standards set forth in department rules.

Section 47. Paragraph (a) of subsection (3) of section 397.97, Florida Statutes, is amended to read:

397.97 Children's substance abuse services; demonstration models.—

(3) PURCHASE OF SERVICES; OPERATION CRITERIA.—

(a) Each demonstration model shall be governed by a multiagency consortium of state and county agencies or other public agencies, or a community-based, not-for-profit substance abuse or behavioral health network designated by the department, hereafter referred to as the purchasing agent, which shall purchase individualized services for children who are at risk of substance abuse or have a substance abuse problem. Services shall be based on ~~client~~ need rather than on traditional services limited to narrowly defined cost centers or appropriations categories. Approval to operate as a Children's Network of Care Demonstration Model shall be given by the secretary of the department and shall be based on criteria developed by the department.

Section 48. Paragraph (g) of subsection (2) of section 397.99, Florida Statutes, is amended to read:

397.99 School substance abuse prevention partnership grants.—

(2) APPLICATION PROCEDURES; FUNDING REQUIREMENTS.—

(g) The department shall consider the following in awarding such grants:

1. The number of youths that will be targeted.
2. The validity of the program design to achieve project goals and objectives that are clearly related to performance-based program budgeting effectiveness measures.
3. The desirability of funding at least one approved project in each of the department's substate entities ~~service districts~~.

Section 49. 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(33)~~ ~~s. 397.311(28)~~, 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(33) ~~s. 397.311(28)~~.

Section 50. Paragraph (a) of subsection (1) of section 766.101, Florida Statutes, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term “medical review committee” or “committee” means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,

c. A committee of a state or local professional society of health care providers,

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

g. A committee of the Department of Children and Family Services which includes employees, agents, or consultants to the department as deemed necessary to provide peer review, utilization review, and mortality review of treatment services provided pursuant to chapters 394, 397, and 916.

h.g. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

~~i.h.~~ A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

~~i.i.~~ A peer review or utilization review committee organized under chapter 440,

~~k.j.~~ A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records, or

~~l.k.~~ A continuous quality improvement committee of a pharmacy licensed pursuant to chapter 465,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service, ~~or~~ to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care, or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

Section 51. Section 394.9081, Florida Statutes, is repealed.

Section 52. This act shall take effect July 1, 2009.

Approved by the Governor June 10, 2009.

Filed in Office Secretary of State June 10, 2009.