

CHAPTER 2022-13

Committee Substitute for Senate Bill No. 282

An act relating to mental health and substance use disorders; amending s. 394.4573, F.S.; providing that the use of peer specialists is an essential element of a coordinated system of care in recovery from a substance use disorder or mental illness; making a technical change; amending s. 397.4073, F.S.; revising background screening requirements for certain peer specialists; revising authorizations relating to work by applicants who have committed disqualifying offenses; making a technical change; amending s. 397.417, F.S.; providing legislative findings and intent; revising requirements for certification as a peer specialist; providing qualifications for becoming a peer specialist; requiring the Department of Children and Families to designate managing entities to conduct or contract for training for peer specialists; requiring that the training be approved by a third-party credentialing entity; requiring managing entities to give preference to trainers who are certified peer specialists; requiring the department to approve one or more third-party credentialing entities for certain purposes; requiring third-party credentialing entities to meet certain requirements for approval; prohibiting third-party credentialing entities from conducting background screenings for peer specialists; requiring that a person providing recovery support services be certified or be supervised by a licensed behavioral health care professional or a certain certified peer specialist; requiring peer specialists and certain persons to meet the requirements of a background screening as a condition of employment and continued employment; requiring certain entities to forward fingerprints to specified entities; requiring the department to screen results to determine if the peer specialist meets the certification requirements; requiring that fees for state and federal fingerprint processing be borne by the peer specialist applying for employment; requiring that any arrest record identified through background screening be reported to the department; authorizing the department or the Agency for Health Care Administration to contract with certain vendors for fingerprinting; specifying requirements for vendors; specifying disqualifying offenses for a peer specialist who applies for certification; authorizing a person who does not meet background screening requirements to request an exemption from disqualification from the department or the agency; providing that a peer specialist certified as of the effective date of the act is deemed to satisfy the requirements of the act; providing an effective date.

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

Section 1. Paragraph (1) of subsection (2) and subsection (3) of section 394.4573, Florida Statutes, are amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports. On or before December 1 of each year, the department shall submit to the

Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment shall also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). Beginning in 2017, the department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(2) The essential elements of a coordinated system of care include:

(1) Recovery support, including, but not limited to, the use of peer specialists to assist in the individual's recovery from a substance use disorder or mental illness; support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management, and self-care; and assistance in obtaining housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(3) ~~SYSTEM IMPROVEMENT GRANTS~~.—Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on a detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 2. Paragraphs (a) and (g) of subsection (1) of section 397.4073, Florida Statutes, are amended to read:

397.4073 Background checks of service provider personnel.—

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

(a) For all individuals screened on or after July 1, ~~2019~~ 2022, background checks shall apply as follows:

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

under s. 408.809 and chapter 435. Inmate substance abuse programs operated directly or under contract with the Department of Corrections are exempt from this requirement.

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

3. All peer specialists who have direct contact with individuals receiving services are subject to a background screening as provided in s. 397.417(4) ~~level 2 background screening as provided under s. 408.809 and chapter 435.~~

(g) If 5 years or more, or 3 years or more in the case of a certified peer specialist or an individual seeking certification as a peer specialist pursuant to s. 397.417, have elapsed since an applicant for an exemption from disqualification has completed or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant’s most recent disqualifying offense, the applicant may work with adults with substance use disorders, mental health disorders, or co-occurring disorders under the supervision of persons who meet all personnel requirements of this chapter for up to 180 90 days after being notified of his or her disqualification or until the department makes a final determination regarding his or her request for an exemption from disqualification, whichever is earlier.

Section 3. Section 397.417, Florida Statutes, is amended to read:

397.417 Peer specialists.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that:

1. The ability to provide adequate behavioral health services is limited by a shortage of professionals and paraprofessionals.

2. The state is experiencing an increase in opioid addictions, many of which prove fatal.

3. Peer specialists provide effective support services because they share common life experiences with the persons they assist.

4. Peer specialists promote a sense of community among those in recovery.

5. Research has shown that peer support facilitates recovery and reduces health care costs.

6. Persons who are otherwise qualified to serve as peer specialists may have a criminal history that prevents them from meeting background screening requirements.

(b) The Legislature intends to expand the use of peer specialists as a cost-effective means of providing services. The Legislature also intends to ensure that peer specialists meet specified qualifications and modified background screening requirements and are adequately reimbursed for their services.

(2) QUALIFICATIONS.—A person may seek certification as a peer specialist if he or she has been in recovery from a substance use disorder or mental illness for the past 2 years or if he or she is a family member or caregiver of a person with a substance use disorder or mental illness.

(3) DUTIES OF THE DEPARTMENT.—

(a) The department shall designate managing entities to either conduct peer specialist training or contract with a provider for peer specialist training. The training must be approved by a third-party credentialing entity approved by the department pursuant to paragraph (b). The managing entities must give preference to trainers who are certified peer specialists.

(b) The department shall approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification. To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.

(c) The department must ensure that background screening required for achieving certification is conducted as provided in subsection (4). Such background screening may not be conducted by third-party credentialing entities.

(d) The department shall require that a peer specialist providing recovery support services be certified; however, an individual who is not certified may provide recovery support services as a peer specialist for up to 1 year if he or she is working toward certification and is supervised by a qualified professional or by a certified peer specialist who has at least 2 years of full-time experience as a peer specialist at a licensed behavioral health organization.

(4) BACKGROUND SCREENING.—

(a) A peer specialist, or an individual who is working toward certification and providing recovery support services as provided in subsection (3), must have completed or have been lawfully released from confinement,

supervision, or any nonmonetary condition imposed by the court for any felony and must undergo a background screening as a condition of initial and continued employment. The applicant must submit a full set of fingerprints to the department or to a vendor, an entity, or an agency that enters into an agreement with the Department of Law Enforcement as provided in s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. The department shall screen the results to determine if a peer specialist meets certification requirements. The applicant is responsible for all fees charged in connection with state and federal fingerprint processing and retention. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained as provided in s. 435.12 and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained fingerprint arrest notification program, as provided in s. 943.05(4). Any arrest record identified must be reported to the department.

(b) The department or the Agency for Health Care Administration, as applicable, may contract with one or more vendors to perform all or part of the electronic fingerprinting pursuant to this section. Such contracts must ensure that the owners and personnel of the vendor performing the electronic fingerprinting are qualified and will ensure the integrity and security of all personal identifying information.

(c) Vendors who submit fingerprints on behalf of employers must:

1. Meet the requirements of s. 943.053; and
2. Have the ability to communicate electronically with the state agency accepting screening results from the Department of Law Enforcement and provide the applicant's full first name, middle initial, and last name; social security number or individual taxpayer identification number; date of birth; mailing address; sex; and race.

(d) The background screening conducted under this subsection must ensure that a peer specialist has not, during the previous 3 years, been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony.

(e) The background screening conducted under this subsection must ensure that a peer specialist has not been arrested for and is awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record

has not been sealed or expunged for, any offense prohibited under any of the following state laws or similar laws of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence as defined in s. 741.28.

6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

9. Section 782.071, relating to vehicular homicide.

10. Section 782.09, relating to killing an unborn child by injury to the mother.

11. Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.

12. Section 787.01, relating to kidnapping.

13. Section 787.02, relating to false imprisonment.

14. Section 787.025, relating to luring or enticing a child.

15. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

16. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

17. Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious behavior.

25. Chapter 800, relating to lewdness and indecent exposure.

26. Section 806.01, relating to arson.

27. Section 810.02, relating to burglary, if the offense was a felony of the first degree.

28. Section 810.14, relating to voyeurism, if the offense was a felony.

29. Section 810.145, relating to video voyeurism, if the offense was a felony.

30. Section 812.13, relating to robbery.

31. Section 812.131, relating to robbery by sudden snatching.

32. Section 812.133, relating to carjacking.

33. Section 812.135, relating to home-invasion robbery.

34. Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.

35. Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.

36. Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.

37. Section 817.505, relating to patient brokering.

38. Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.

39. Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.

40. Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.

41. Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.

42. Section 826.04, relating to incest.

43. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

44. Section 827.04, relating to contributing to the delinquency or dependency of a child.

45. Former s. 827.05, relating to negligent treatment of children.

46. Section 827.071, relating to sexual performance by a child.

47. Section 831.30, relating to fraud in obtaining medicinal drugs.

48. Section 831.31, relating to the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.

49. Section 843.01, relating to resisting arrest with violence.

50. Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.

51. Section 843.12, relating to aiding in an escape.

52. Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.

53. Chapter 847, relating to obscenity.

54. Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

55. Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.

56. Section 895.03, relating to racketeering and collection of unlawful debts.

57. Section 896.101, relating to the Florida Money Laundering Act.

58. Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

59. Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

60. Section 944.40, relating to escape.

61. Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

62. Section 944.47, relating to introduction of contraband into a correctional institution.

63. Section 985.701, relating to sexual misconduct in juvenile justice programs.

64. Section 985.711, relating to introduction of contraband into a detention facility.

(5) EXEMPTION REQUESTS.—A person who wishes to become a peer specialist and is disqualified under subsection (4) may request an exemption from disqualification pursuant to s. 435.07 from the department or the Agency for Health Care Administration, as applicable.

(6) GRANDFATHER CLAUSE.—A peer specialist certified as of July 1, 2022, is deemed to satisfy the requirements of this section; however, such peer specialists must comply with the minimum standards and requirements needed to maintain certification established pursuant to subsection (3).

~~(1)—An individual may seek certification as a peer specialist if he or she has been in recovery from a substance use disorder or mental illness for at least 2 years, or if he or she has at least 2 years of experience as a family member or caregiver of a person with a substance use disorder or mental illness.~~

~~(2)—The department shall approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification. To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.~~

~~(3)—An individual providing department-funded recovery support services as a peer specialist shall be certified pursuant to subsection (2). An individual who is not certified may provide recovery support services as a peer specialist for up to 1 year if he or she is working toward certification and is supervised by a qualified professional or by a certified peer specialist who has at least 3 years of full-time experience as a peer specialist at a licensed behavioral health organization.~~

Section 4. This act shall take effect July 1, 2022.

Approved by the Governor March 10, 2022.

Filed in Office Secretary of State March 10, 2022.