

Meeting Agenda – September 13, 2016
Sober Homes Task Force (Proviso Group)

1. Introductions
2. Licensing and Certification of Recovery Residences
 - a. Proposed Part X, FS 397.1000 - 1009
 - i. Define the class of residences requiring licensure
 - ii. ADA and FHA
 1. Joint Statement Of The Department Of Justice And The Department Of Housing And Urban Development:
“The great majority of group homes for persons with disabilities are subject to state regulations intended to protect the health and safety of their residents. The Department of Justice and HUD believe, as do responsible group home operators, that such licensing schemes are necessary and legitimate.” (page 7)
 - iii. Licensing entity (AHCA, DCF)
 - b. Proposed FS 397.1008
 - i. Rights of individuals living in licensed recovery residence
 1. FARR discharge protocols (attached)
 2. 48 hour notice of eviction or provide alternative residence, Marchman Act or hospitalization
 3. Require notification of emergency contacts prior to eviction
 4. Other suggested rights

c. Proposed changes to FS 397.487

- i. Mandatory certification – Commercial recovery residences subject to licensure
- ii. voluntary certification – Recovery residences not subject to licensure
- iii. Amend FS 397.487(2)(e): Appropriate fee for certification (commerce or non-commerce)

3. Proposed amendments to FS 817.505, Patient Brokering

- a. Amend to include recovery residences
- b. Amend to exempt “market rate” rent (and board) where the commercial recovery residence is both licensed and certified.
 - i. Define “Market Rent”
 - ii. Should “Board” be exempted?
 - iii. Should on-site amenities be exempted? Define amenities.
 - iv. Any other benefits
- c. Add conspiracy to broker by using a third party non-profit to induce residents of a commercial recovery residence to utilize a specific treatment provider by offering a benefit, whether cash or in-kind, to the patient or commercial recovery residence, in return for using the contributing provider.

4. Proposed FS 397.355 (ethical marketing practices)

- a. Identify common abuses
- b. Effectiveness of proposed legislation
- c. Suggested additions/deletions

5. Public comments

6. Closing remarks

FARR Discharge Protocol: Reoccurrence of Use (ROU)

This overview paragraph to cover: *Not bad person...or moral failing. Discharge is to protect the peer community which must always be first priority. Second priority is intervention to re-engage resident in actions that support recovery. Third priority is to inform emergency contacts and seek their input/support. Concludes with acknowledgement that people who are **ill** should be provided enhanced **scaffolding**, particularly when their malady is most evident. Discharge from the home is not an abandonment. Discharge from the home is necessary to protect the integrity of the peer community, however; deliberate effort must be made to support this individual's health and safety.*

1. Confirm use:

- a. Resident admission of use
- b. Alcohol and/or qualitative drug screening-qualitative (POC)
- c. Quantitative confirmatory laboratory testing (only when necessary due to resident continued denial of use)

2. Is detoxification necessary to ensure resident safety?

- a. If yes; is resident willing to voluntarily admit to a detox facility?
 - i. If yes; what options are available and proceed down this path
 - ii. If no; what does resident want to do instead? Follow resident's advanced directive
- b. If no detox is warranted due to duration of use: follow resident's advanced directive:

3. Follow advanced directive executed by resident at intake:

- a. Notify family supports that resident is actively misusing substance(s) and seek their input
- b. Notify the referral source, if applicable, to determine if the resident might return to them
- c. Identify an alternate higher level of care that will admit resident
- d. Identify alternative shelters:
 - i. Alternate sober home (higher level?)
 - ii. Homeless shelter
 - iii. Family/Friend
- e. If resident is unwilling to embrace actions recommended above:
 - i. Initiate **Baker Act** per resident's advanced directive:
 1. Resident stated in Advanced Directive at time of intake that her/his addiction career has unequivocally demonstrated to her/his satisfaction that when she/he returns to active use, she/he is no longer of sane mind; that her/his judgement is influenced by substance misuse posing a potential threat to self and others.
 2. CRRRA solicits support from law enforcement to assist a **mentally ill** individual to obtain qualified evaluation by a medical professional.
 3. Depending on the results of that evaluation and recommendations from qualified addiction professionals, a determination is made regarding this individual's continued residency at the appropriate time.
 4. Residency determination post evaluation to include input from the peer community.

- f. If determination is made that the resident requires a higher level of care, then:
 - i. CRRA, in presence of resident and a witness, organizes, packs and secures the residents personal belongings:
 - 1. Prescription Medicines (follow legal requirement)
 - 2. Storage receipt with terms & conditions
 - 3. Arrange for transfer of belongings to resident
- g. If resident is unwilling to follow protocol established in Advanced Directive and law enforcement is unwilling/able to initiate Baker Act procedures, then:
 - i. Notify family of these facts
 - ii. Transport resident to the local emergency room for medical clearance
 - iii. If medically cleared, purchase a room at a nearby motel for a single day's stay
 - iv. Immediately notify family orally by phone and by email of motel address, room number and telephone number, confirming receipt of email notification
 - v. CRRA attempts to engage resident (in person or by phone) the following day to encourage resident to reconsider options and make a recovery supportive choice.

1 A bill to be entitled
2 An amendment to the Hal S. Marchman Alcohol and Other Drug
3 Services Act to create Part X of chapter 397 pertaining to the
4 licensure, certification and operation of Commercial Recovery
5 Residences in this state; providing for the amendment of §
6 397.305 F.S., creating subsection(12)expressing an additional
7 legislative intent and purpose; providing for the amendment of
8 §397.311 F.S., to add the definitions of the terms "commercial
9 recovery residence", "individual", "active treatment", "agency",
10 "disabling condition", "marketing practices", "substance abuse
11 lead generator" and "resident" as used in chapter 397; providing
12 for the amendment of s.397.487, F.S., to require certification
13 of commercial recovery residences; Amending s. 817.505, F.S.;
14 providing that the violation of the prohibition against certain
15 marketing unethical marketing practices by a provider or
16 operator is a violation of the Florida Deceptive and Unfair
17 Trade Practices Act; providing for the creation of § 397.1000
18 requiring that all commercial recovery residences be licensed by
19 the Agency of Health Care Administration establishing civil
20 fines and criminal sanctions for violations of Part X.
21 Providing for the creation of § 397.1001 requiring an
22 application for the licensure of a commercial recovery
23 residence; providing for the creation of § 397,1002 establishing
24 a licensure process and fees for licensed commercial recovery
25 residences; providing for the creation of § 397.1003 authorizing
26 inspections of commercial recovery residences; providing for the
27 creation of § 397.1004 establishing the agency's authority to
28 deny, suspend, or revoke the licenses of commercial recovery
29 residences; providing for the creation of § 397.1005 pertaining
30 to the well-being of residents in commercial recovery
31 residences; providing for the creation of § 397.1006 requiring

32 training and education programs for owners of commercial
33 recovery residences; providing for the creation of § 397.1007 to
34 require residency agreements between the owner of a commercial
35 recovery residence and each resident of a commercial recovery
36 residence; providing for the creation of § 397.1008 establishing
37 a bill of rights for residents of commercial recovery
38 residences; providing for the creation of § 397.1009 pertaining
39 to a resident's enforcement of the bill of rights.

40

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

42

43 Section 1. Amendments to § 397.305, legislative intent by
44 creating subsection (12) pertaining to commercial recovery
45 residences:

46 (12) It is the intent of the Legislature that commercial
47 recovery residences be licensed to provide for the health,
48 safety and welfare of disabled adults who are recovering from
49 substance abuse and who choose to live in a drug and alcohol
50 free family-type living arrangement. The Legislature recognizes
51 that the licensure of commercial recovery residences plays an
52 important part in providing a continuum of support for assisting
53 individuals in active recovery. Further, it is the intent of the
54 Legislature to require that a licensed recovery residence
55 administrator live in the commercial recovery residence.

56

57 Section 2. Amending § 397.311, Definitions as follows:

58 (1) "Active treatment" means: An individual who is
59 currently receiving, about to receive or has recently completed
60 day or night treatment with community housing, or outpatient
61 treatment, including intensive outpatient treatment.

62 (2) "Agency" means the agency for health care
63 administration.

64 (8) "Commercial Recovery Residence" means: A recovery
65 residence where one or more residents is in active treatment
66 with a private for profit licensed treatment provider.

67 (22) "Individual" means a person who receives alcohol or
68 drug abuse treatment services delivered by a licensed service
69 provider or a person who is disabled due to substance abuse
70 residing in a recovery residence or commercial recovery
71 residence. The term does not include an inmate pursuant to part
72 VIII of this chapter unless expressly so provided.

73 Section 3. Amending 397.487 requiring mandatory
74 certification of commercial recovery residences and providing
75 for voluntary certification of recovery residences.

76
77 Section 4. Amending chapter 397 by creating Part X to
78 require the licensure of commercial recovery residences:

79 **PART X**

80 **RECOVERY RESIDENCES**

81 397.1000 License required; violations

82 397.1001 License application

83 397.1002 License process; fees

84 397.1003 Inspection; right of entry

85 397.1004 Denial, suspension, and revocation of license

86 397.1005 Well-being of residents of commercial recovery
87 residences

88 397.1006 Training and continuing education

89 397.1007 Commercial recovery residence agreements

90 397.1008 Bill of rights

91 397.1009 Civil actions by residents to enforce rights

92

93 **397.1000 License required; violations**

94 (1) It is unlawful for any person to own or operate a
95 commercial recovery residence unless it is licensed by the
96 Agency for Health Care Administration.

97 (2) A violation of subsection (1), commits

98 (a) a misdemeanor of the first degree for a first violation,
99 punishable as provided in s. 775.082 or s. 775.083 (b) a felony
100 of the third degree for a second or subsequent violation,
101 punishable as provided in s. 775.082 or s.775.083.

102 (3) The agency may maintain an action in circuit court to
103 enjoin the unlawful operation of a commercial recovery residence
104 provided the agency has first given the violator 14 days' notice
105 of its intent to maintain an action and the violator fails to
106 apply for licensure within that 14 day period. If the agency
107 determines that the health, safety, and welfare of individuals
108 are jeopardized, the agency may move for an emergency injunction
109 to enjoin the operation of the commercial recovery residence at
110 any time during the 14 day period. If the owner or operator of
111 a commercial recovery residence has already applied for
112 licensure under this chapter and has been denied licensure, the
113 agency may move immediately to obtain an emergency injunction.

114 (4) Violations of the agency's rules and standards
115 established for the operation of a commercial recovery residence
116 shall subject the owner or operator to a fine in an amount not
117 less than \$500. The fine may be levied notwithstanding the
118 correction of the violation. The fine may be levied for each
119 day the agency determines that the violation occurred, and for
120 each day the violation continues beyond any date specified by
121 the agency for correction or compliance.

122

123 **397.1001 License application.**

124 (1) Applicants for a license under this part must apply to
125 the agency on forms provided by the agency and pay the fee for
126 an application proscribed by the agency. Applications shall
127 include at a minimum:

128 (a) Information establishing the name and address of the
129 applicant for a commercial recovery residence license and its
130 recovery residence administrator, and also of each member,
131 owner, officer, and shareholder, if any.

132 (b) Information establishing the competency and ability of
133 the applicant and recovery residence administrator to carry out
134 the requirements and rules of this part.

135 (c) Proof satisfactory to the agency of the owner's
136 financial ability and organizational capability to operate in
137 accordance with this part.

138 (d) Proof of liability insurance coverage in amounts set
139 by the agency's rule.

140 (e) Sufficient information to conduct a background
141 screening of the owner and recovery residence administrator as
142 established by the agency's rule.

143 (2) If the results of the background screening indicate that
144 any owner, director, or chief financial officer has been found
145 guilty of, regardless of adjudication, or has entered a plea of
146 nolo contendere or guilty to any offences prohibited under the
147 screening standard established by the agency's rule, a license
148 may not be issued to the applicant unless an exemption from
149 disqualification has been granted by the agency. The owner,
150 director, or chief financial officer has 90 days within which to
151 obtain the required exemption, during which time the applicant's
152 license remains in effect.

153 (3) If the owner, director, or chief financial officer is
154 arrested or found guilty of, regardless of adjudication or has

155 entered a plea of nolo contendere or guilty to any offense
156 prohibited under the screening standard while acting in that
157 capacity, that person shall immediately be removed from that
158 position and the recovery residence shall notify the agency
159 within 2 days after such removal, excluding weekends and
160 holidays. Failure to remove the owner, director or chief
161 financial officer shall result in the revocation of the
162 commercial recovery residence's license.

163 (a) The burden of proof with respect to any requirement
164 for application for licensure as a commercial recovery residence
165 under this part is on the applicant.

166 (b) The owner of a commercial recovery residence shall
167 also submit to the agency proof that it is has been certified as
168 a commercial recovery residence by a credentialing entity, as
169 required by s. 397.487.

170

171 **397.1002 Licensure process; fees**

172 (2) The agency shall by rule establish the license process to
173 include fees based upon the resident capacity of the commercial
174 recovery residence.

175 (2) The agency shall assess a fee of \$500 for the late filing
176 of an application for renewal of a license.

177 (3) Licensure and renewal fees shall be deposited in an
178 appropriate fund of the agency to be used for the actual cost of
179 monitoring, inspecting and overseeing the operations of
180 commercial recovery residences.

181

182 **397.1003 Inspection; right of entry;**

183 (1) An authorized agent of the agency shall upon reasonable
184 notice periodically inspect a recovery residence to determine

185 whether it is in compliance with its license and or a
186 certificate of compliance issued by a credentialing entity.

187 (2) An authorized agent of the agency may, with the
188 permission of a recovery residence administrator, or pursuant to
189 a warrant, enter and inspect a commercial recovery residence it
190 reasonably suspects to be operating in violation of this part or
191 a certificate of compliance issued by a credentialing entity.

192 (3) An application for licensure as a commercial recovery
193 residence under this part constitutes full permission for an
194 authorized agent of the agency to enter and inspect the
195 commercial recovery residence.

196

197 **397.1004 Denial, suspension, and revocation of license**

198 (1) If the agency determines that an applicant or licensed
199 commercial recovery residence owner or operator is not in
200 compliance with all of the requirements of this part or a
201 certificate of compliance issued by a credentialing entity, the
202 agency may deny, suspend, revoke, or impose reasonable
203 restrictions or penalties, including fines on the owner or
204 operator of the commercial recovery residence. The agency may:

205 (a) Impose a moratorium on any further leasing of rooms to
206 potential residents of a commercial recovery residence.

207 (b) Impose an administrative fine of up to \$500 per day
208 against the owner or operator for any violations of this part or
209 failure to comply with the standards maintained by a
210 credentialing entity for the operation of a commercial recovery
211 residence.

212 (c) Suspend or revoke the license of the commercial
213 recovery residence.

214

215 (1) If a commercial recovery residence's license has
216 been revoked, the owner or operator shall be barred from
217 submitting any application for licensure to the agency
218 for one year after the revocation.

219 (2) Proceedings to revoke or suspend the license of a
220 commercial recovery residence shall be conducted in
221 accordance with chapter 120.

222 (3) The agency with the assistance of the States
223 Attorney may maintain an action in court to enjoin the
224 operation of any licensed or unlicensed commercial
225 recovery residence, or violation of the provisions of
226 this part or the certificate of compliance issued by the
227 credentialing entity.

228

229 **397.1005 Well-being of residents of commercial recovery**
230 **residences**

231 The agency, in consultation with the Department of Health and
232 the Department of Children and Families shall by rule, establish
233 minimum standards to ensure the health, safety and well-being of
234 each resident in a commercial recovery residence.

235

236 **397.1006 Training and continuing education**

237 All commercial recovery residence owners and operators shall
238 complete training and education programs regarding the
239 requirements of this part and the operation of a commercial
240 recovery residence in accordance with the standards of
241 compliance to be certified as a commercial recovery residence by
242 a credentialing entity. All owners or operators shall be
243 required to participate in periodic continuing education
244 programs as specified by rule.

245

246 **397.1007 Commercial recovery residence agreements**

247 (1) Each resident of a commercial recovery residence, must be
248 covered by a residency agreement, executed before or at the time
249 of admission, between the owner or operator of the commercial
250 recovery residence and the resident. Each party to the contract
251 shall be provided a duplicate copy or the original agreement,
252 and the owner or operator of the commercial recovery residence
253 shall maintain the original agreement on file for 5 years after
254 expiration of the agreement.

255 (2) Each residency agreement shall specify the personal care
256 and accommodations to be provided by the commercial recovery
257 residence, the rate or charges, a requirement of at least 30
258 days' notice before a rate increase, and any other provisions
259 required by rule.

260

261 **397.1008 Bill of rights**

262 (1) A resident of a commercial recovery residence may not be
263 deprived of any civil or legal rights, benefits, or privileges
264 guaranteed by law, the State Constitution, or the Constitution
265 of the United States solely by reason of status as a resident of
266 a commercial recovery residence. Each resident has the right
267 to:

268 (a) Live in a safe and decent living environment, free
269 from abuse and neglect.

270 (b) Be treated with consideration and respect and with due
271 recognition of personal dignity, individuality and privacy.

272 (c) Keep and use the resident's own clothes and other
273 personal property in the resident's immediate living quarters,
274 so as to maintain individuality and personal dignity.

275 (d) Have unrestricted private communications, including
276 receiving and sending unopened correspondence, having access to

277 a telephone, (e) Be free to participate in and benefit from
278 community services and activities and to achieve the highest
279 possible level of independence, autonomy, and interaction within
280 the community.

281 (f) Manage the resident's own financial affairs unless the
282 resident shall have designated someone else to do so.

283 (g) Have reasonable opportunity for regular exercise
284 several times a week and to be outdoors at regular and frequent
285 intervals.

286 (h) Exercise civil and religious liberties, including the
287 right to independent personal decisions. Religious beliefs or
288 practices and attendance at religious services may not be
289 imposed upon a resident.

290 (i) Have access to adequate or appropriate health care.

291 (j) Have at least 30 days' notice of relocation or
292 termination of residency from the commercial recovery residence
293 unless the resident engages in a pattern of conduct that is
294 harmful or offensive to other residents, or the resident does
295 not comply with the rules of the commercial recovery residence.

296 (K) If the residency is being terminated pursuant to
297 subsection (j), the resident shall be given a minimum of 48
298 hours notice, unless the resident is provided alternative
299 accommodations, or is hospitalized pursuant to the Marchman Act.

300 (k) Present grievances and recommend changes to the recovery
301 residence administrator.

302 (3) The owner, operator, or recovery residence administrator
303 may not serve notice upon a resident to leave the premises or
304 take any other retaliatory action against any person who:

305 (a) Exercises any right set forth in this section.

306 (b) Appears as a witness in any hearing pertaining to the
307 licensure of the commercial recovery residence.

308 (c) Files a civil action alleging a violation of this part
309 or notifies a state attorney or the Attorney General of a
310 possible violation of this part.

311 (4) Any recovery residence that terminates the residency of an
312 individual who has participated in activities specified in
313 subsection (4) shall show good cause for the termination of an
314 agreement in a court of competent jurisdiction.

315 (5) Any person who reports a complaint concerning a suspected
316 violation of this part or the services and conditions in a
317 commercial recovery residence, or who testifies in any
318 administrative or judicial proceeding arising from such a
319 complaint, is immune from any civil or criminal liability
320 therefor, unless the person acted in bad faith or with malicious
321 purpose or the court finds that there was a complete absence of
322 a justiciable issue of either law or fact raised by the losing
323 party.

324
325 **397.1009 Civil action by residents to enforce rights:**

326 (1) Any resident whose rights as specified in this part are
327 violated has a cause of action against the owner, operator, or
328 recovery residence administrator of a commercial recovery
329 residence who was responsible for the violation. The action may
330 be brought by the resident, or by a person or organization
331 acting on behalf of a resident with the consent of the resident
332 to enforce the right. The action may be brought in any court of
333 competent jurisdiction seeking to enforce such rights and to
334 recover actual damages, and punitive damages when malicious,
335 wanton, or willful disregard of the resident's rights can be
336 shown. Any resident who prevails in any such action is entitled
337 to recover reasonable attorney's fees, costs of the action, and
338 damages, unless the court finds that the resident has acted in

339 bad faith or with malicious purpose or that there was a complete
340 absence of a justiciable issue of either law or fact. A
341 prevailing defendant is entitled to recover reasonable
342 attorney's fees pursuant to s. 57.105. The remedies provided in
343 this section are in addition to other legal and administrative
344 remedies available to a resident or to the agency.

345

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1 397.487 Certification of recovery residences

2 (1)The Legislature finds that a person suffering from addiction has a
3 higher success rate of achieving long-lasting sobriety when given the
4 opportunity to build a stronger foundation by living in a recovery
5 residence after completing treatment. The Legislature further finds that
6 this state and its subdivisions have a legitimate state interest in
7 protecting these persons, who represent a vulnerable consumer population
8 in need of adequate housing. It is the intent of the Legislature to
9 protect persons who reside in a recovery residence.

10 (2) For the purposes of this section:

11 (a) "Recovery residence" means a residential dwelling unit or other form
12 of group housing that is offered or advertised through any means,
13 including oral, written, electronic, or printed means, and any person or
14 entity as a residence that provides a peer-supported, alcohol free, and
15 drug free living environment.

16 (b) "Commercial Recovery residence" means a recovery residence where one
17 or more residents is in active treatment, as defined in s.397.311, with a
18 private for profit licensed service provider(3) The department shall
19 approve at least one credentialing entity by December 1, **2015** for the
20 purpose of developing and administering a voluntary certification program
21 for recovery residences. The approved credentialing entity shall:

22 (a)Establish recovery residence certification requirements

23 (b)Establish procedures to:

- 24 1. Administer the application, certification, recertification, and
25 disciplinary processes.
- 26 2. Monitor and inspect a recovery residence and its staff to ensure
27 compliance with certification requirements.
- 28 3. Interview and evaluate residents, employees, and volunteer staff on
29 their knowledge and application of certification requirements.

30 (c)Provide training for owners, managers, and staff

31 (d)Develop a code of ethics

32 (e)Establish application, inspection, and annual certification renewal
33 fees. The application fee for a commercial recovery residence subject to
34 subsection (10) may not exceed \$1500. The application fee for commercial

35 recovery residences and recovery residences not subject to subsection
36 (10) may not exceed \$300 per certification. Any onsite inspection fee
37 shall reflect actual costs for inspections. The annual certification
38 renewal fee may not exceed \$1500 for a commercial recovery residence
39 subject to subsection (10) of this subsection, and \$300 for all other
40 licensees.

41 (3) A credentialing entity shall require the recovery residence to submit
42 the following documents with the completed application and fee:

43 (a) A policy and procedures manual containing:

- 44 1. Job descriptions for all staff positions.
- 45 2. Drug-testing procedures and requirements
- 46 3. A prohibition on the premises against alcohol, illegal drugs, and
47 the use of prescribed medications by an individual other than the
48 individual for whom the medication is prescribed.
- 49 4. Policies to support a resident's recovery efforts.
- 50 5. A good neighbor policy to address neighborhood concerns and
51 complaints.

52 (b) Rules for residents.

53 (c) Copies of all forms provided to residents.

54 (d) Intake procedures.

55 (e) Sexual predator and sexual offender registry compliance policy.

56 (f) Relapse policy.

57 (g) Fee schedule.

58 (h) Refund policy.

59 (i) Eviction procedures and policy

60 (j) Code of ethics

61 (k) Proof of insurance.

62 (l) Proof of background screening

63 (m) Proof of satisfactory fire, safety, and health inspections.

64 (4) A certified recovery residence must be actively managed by a certified
65 recovery residence administrator. All applications for certification must
66 include the name of the certified recovery residence administrator who
67 will be actively managing the applicant recovery residence.

68 (5) Upon receiving a complete application, a credentialing entity shall
69 conduct an onsite inspection of the recovery residence.

70 (6) All owners, directors, and chief financial officers of an applicant
71 recovery residence are subject to level 2 background screening as
72 provided under chapter 435. A recovery residence is ineligible for
73 certification, and a credentialing entity shall deny a recovery
74 residence's application, if any owner, director, or chief financial
75 officer has been found guilty of, or has entered a pleas of guilty or
76 nolo contendere to, regardless of adjudication, any offense listed in s.
77 435.04, unless the department has issued an exemption under s. 397.4872.
78 In accordance with s. 435.04, the department shall notify the
79 credentialing agency of an owner's, director's, or chief financial
80 officer's eligibility based on the results of his or her background
81 screening.

82 (7) A credentialing entity shall issue a certificate of compliance upon
83 approval of the recovery residence's application and inspection. The
84 certification shall automatically terminate 1 year after issuance if not
85 renewed.

86 (8) Onsite follow-up monitoring of a certified recovery residence may be
87 conducted by the credentialing entity to determine continuing compliance
88 with certification requirements. The credentialing entity shall inspect
89 each certified recovery residence at least annually to ensure compliance.

90 (a) A credentialing entity may suspend or revoke a certification if the
91 recovery residence is not in compliance with any provision of this
92 section or has failed to remedy any deficiency identified by the
93 credentialing entity within the time period specified.

94 (b) A certified recovery residence must notify the credentialing entity
95 within 3 business days after the removal of the recovery residence's
96 certified recovery residence administrator due to termination,
97 resignation, or any other reason. The recovery residence has 30 days to
98 retain a certified recovery residence administrator. The credentialing
99 entity shall revoke the certificate of compliance of any recovery
100 residence that fails to comply with this paragraph.

101 (c)If any owner, director, or chief financial officer of a certified
102 recovery residence is arrested for or found guilty of, or enters a pleas
103 of guilty or nolo contendere to, regardless of adjudication, any offense
104 listed in s. 435.04(2) while acting in that capacity, the certified
105 recovery residence shall immediately remove the person from that position
106 and shall notify the credentialing entity with 3 business days after such
107 removal. The credentialing entity shall revoke the certificate of
108 compliance of a recovery residence that fails to meet these requirements.

109 (d)A credentialing entity shall revoke a recovery residence's certificate
110 of compliance if the recovery residence provides false or misleading
111 information to the credentialing entity at any time.

112 (9)A person may not advertise to the public, in any way or by any medium
113 whatsoever, any recovery residence as a "certified recovery residence"
114 unless such recovery residence has first secured a certificate of
115 compliance under this section. A person who violates this subsection
116 commits a misdemeanor of the first degree, punishable as provided in s.
117 775.082 or s. 775.083.

118 (10) A commercial recovery residence, as defined in s.397.311, is
119 required to be a "certified recovery residence" prior to accepting any
120 "market rent" subsidy, directly or indirectly, from a licensed service
121 provider.

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1 Section 397.355, Florida Statutes, is created to read:

2 397.335 Prohibition of unethical marketing practices. -The
3 Legislature recognizes that individuals with substance abuse
4 disorders have disabling conditions that put them at risk of
5 being vulnerable to fraudulent marketing practices. To protect
6 the health, safety, and welfare of this vulnerable population,
7 substance abuse treatment providers licensed under this chapter
8 and operators of recovery residences may not engage in the
9 following marketing practices:

10 (1) Making false or misleading statements or providing
11 false or misleading information about their products, goods,
12 services, or geographical location in their marketing,
13 advertising materials, or media or on their respective websites.

14 (2) Including on their respective websites coding that
15 provides false information or surreptitiously directs the reader
16 to another website.

17 (3) Soliciting or receiving a commission, benefit, bonus,
18 rebate, kickback or bribe, directly or indirectly, in cash or in
19 kind, or engaging or making an attempt to engage in a split fee
20 arrangement in return for a referral or an acceptance or
21 acknowledgement of treatment from a health care provider, health
22 care facility, or recovery residence. A violation of this
23 subsection is a violation of prohibition on patient brokering and
24 is subject to criminal penalties under s.817.505. This subsection
25 does not apply to referrals from recovery residences to other
26 recovery residences.

27 (4) Entering into a marketing contract with a substance
28 abuse lead generator that engages in marketing through a call
29 center, unless the call center discloses the following to the
30 caller so that he or she can make an informed health care
31 decision:

32

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34 (a) The substance abuse treatment programs it represents
35 (b) Clear and concise instructions that allow the caller
36 to easily access a list of licensed substance abuse treatment
37 agencies, both public and private, on the department website.
38 A substance abuse treatment provider licensed under this chapter
39 which is operating as a partial hospitalization or an outpatient
40 program, including an intensive outpatient program, may not offer
41 a prospective patient free or reduced rent at a recovery
42 residence to induce the prospective patient to choose it as the
43 patient's provider and may not make a direct or an indirect
44 payment to a recovery residence for a patient's housing or other
45 housing-related services. A provider or operator that violates
46 this section commits a violation of the Florida Deceptive and
47 Unfair Tread Practices Act under s. 501.2077 (2). The Department
48 of Children and Families shall submit copies of findings related
49 to violations by entities licensed and regulated under this
50 chapter to the Department of Legal Affairs.

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1 817.505. Patient brokering prohibited; exceptions; penalties

2 (1) It is unlawful for any person, including any health care provider,
3 health care facility, or recovery residence to:

4 (a) Offer or pay any commission, bonus, rebate, kickback, or bribe,
5 directly or indirectly, in cash or in kind, or engage in any split-fee
6 arrangement, in any form whatsoever, to induce the referral of patients
7 or patronage to or from a health care provider or health care facility;

8 (b) Solicit or receive any commission, benefit, bonus, rebate, kickback,
9 or bribe, directly or indirectly, in cash or in kind, or engage in any
10 split-fee arrangement, in any form whatsoever, in return for referring
11 patients or patronage to or from a health care provider or health care
12 facility;

13 (c) Solicit or receive any commission, benefit, bonus, rebate, kickback, or
14 bribe, directly or indirectly, in cash or in kind, or engage in any split-
15 fee arrangement, in any form whatsoever, in return for the acceptance or
16 acknowledgment of treatment from a health care provider or health care
17 facility, or recovery residence; or

18 (d) Aid, abet, advise, or otherwise participate in the conduct prohibited
19 under paragraph (a), paragraph (b), or paragraph (c).(2) For the purposes
20 of this section, the term:

21 (a) "Health care provider or health care facility" means any person or
22 entity licensed, certified, or registered; required to be licensed,
23 certified, or registered; or lawfully exempt from being required to be
24 licensed, certified, or registered with the Agency for Health Care
25 Administration or the Department of Health; any person or entity that has
26 contracted with the Agency for Health Care Administration to provide
27 goods or services to Medicaid recipients as provided under s. 409.907; a
28 county health department established under part I of chapter 154; any
29 community service provider contracting with the Department of Children
30 and Families to furnish alcohol, drug abuse, or mental health services
31 under part IV of chapter 394; any substance abuse service provider
32 licensed under chapter 397; or any federally supported primary care
33 program such as a migrant or community health center authorized under ss.
34 329 and 330 of the United States Public Health Services Act.

35 (b) "Health care provider network entity" means a corporation,
36 partnership, or limited liability company owned or operated by two or
37 more health care providers and organized for the purpose of entering into
38 agreements with health insurers, health care purchasing groups, or the
39 Medicare or Medicaid program.

40 (c) "Health insurer" means any insurance company authorized to transact
41 health insurance in the state, any insurance company authorized to
42 transact health insurance or casualty insurance in the state that is
43 offering a minimum premium plan or stop-loss coverage for any person or
44 entity providing health care benefits, any self-insurance plan as defined
45 in s. 624.031, any health maintenance organization authorized to transact
46 business in the state pursuant to part I of chapter 641, any prepaid
47 health clinic authorized to transact business in the state pursuant to
48 part II of chapter 641, any prepaid limited health service organization
49 authorized to transact business in this state pursuant to chapter 636,
50 any multiple-employer welfare arrangement authorized to transact business
51 in the state pursuant to ss. 624.436-624.45, or any fraternal benefit
52 society providing health benefits to its members as authorized pursuant
53 to chapter 632.

54 (d) "market rent" means...

55 (e) "Recovery residence" means a residential dwelling unit or other form
56 of group housing that is offered or advertised through any means,
57 including oral, written, electronic, or printed means, and any person or
58 entity as a residence that provides a peer-supported, alcohol free, and
59 drug free living environment.

60 (f) "Commercial Recovery residence" means a recovery residence where one
61 or more residents is in active treatment, as defined in s.397.311, with a
62 private for profit or not-for-profit licensed service provider that
63 offers substance abuse services through one or more licensed service
64 components.

65 (3) This section shall not apply to:

66 (a) Any discount, payment, waiver of payment, or payment practice not
67 prohibited by 42 U.S.C. s. 1320a-7b (b) or regulations promulgated
68 thereunder.

69 (b) Any payment, compensation, or financial arrangement within a group
70 practice as defined in s. 456.053, provided such payment, compensation,
71 or arrangement is not to or from persons who are not members of the group
72 practice.

73 (c) Payments to a health care provider or health care facility for
74 professional consultation services.

75 (d) Commissions, fees, or other remuneration lawfully paid to insurance
76 agents as provided under the insurance code.

77 (e) Payments by a health insurer who reimburses, provides, offers to
78 provide, or administers health, mental health, or substance abuse goods
79 or services under a health benefit plan.

80 (f) Payments to or by a health care provider or health care facility, or
81 a health care provider network entity, that has contracted with a health
82 insurer, a health care purchasing group, or the Medicare or Medicaid
83 program to provide health, mental health, or substance abuse goods or
84 services under a health benefit plan when such payments are for goods or
85 services under the plan. However, nothing in this section affects whether
86 a health care provider network entity is an insurer required to be
87 licensed under the Florida Insurance Code.

88 (g) Insurance advertising gifts lawfully permitted under s.
89 626.9541(1)(m).

90 (h) Commissions or fees paid to a nurse registry licensed under s.
91 400.506 for referring persons providing health care services to clients
92 of the nurse registry.

93 (i) Payments by a health care provider or health care facility to a
94 health, mental health, or substance abuse information service that
95 provides information upon request and without charge to consumers about
96 providers of health care goods or services to enable consumers to select
97 appropriate providers or facilities, provided that such information
98 service:

99 1. Does not attempt through its standard questions for solicitation of
100 consumer criteria or through any other means to steer or lead a consumer
101 to select or consider selection of a particular health care provider or
102 health care facility;

103 2. Does not provide or represent itself as providing diagnostic or
104 counseling services or assessments of illness or injury and does not make
105 any promises of cure or guarantees of treatment;

106 3. Does not provide or arrange for transportation of a consumer to or
107 from the location of a health care provider or health care facility; and

108 4. Charges and collects fees from a health care provider or health care
109 facility participating in its services that are set in advance, are
110 consistent with the fair market value for those information services, and
111 are not based on the potential value of a patient or patients to a health
112 care provider or health care facility or of the goods or services
113 provided by the health care provider or health care facility.

114 (j) Any activity permitted under s. 429.195(2).

115 (k) Referrals from recovery residences to other recovery residences,
116 provided that no commission, benefit, bonus, rebate, kickback, or bribe
117 is offered or received, directly or indirectly, by the referring or
118 receiving recovery residence, its employees, officers, or owners, their
119 family members or members of their household.

120 (l) The payment of market rent, in whole or in part, for a patient by a
121 licensed service provider to a commercial recovery residence.

122 (4) Any person, including an officer, partner, agent, attorney, or other
123 representative of a firm, joint venture, partnership, business trust,
124 syndicate, corporation, or other business entity, who violates any
125 provision of this section, commits a felony of the third degree,
126 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

127 (5) Notwithstanding the existence or pursuit of any other remedy, the
128 Attorney General or the state attorney of the judicial circuit in which
129 any part of the offense occurred may maintain an action for injunctive or
130 other process to enforce the provisions of this section.

131 (6) The party bringing an action under this section may recover
132 reasonable expenses in obtaining injunctive relief, including, but not
133 limited to, investigative costs, court costs, reasonable attorney's fees,
134 witness costs, and deposition expenses.

135 (7) The provisions of this section are in addition to any other civil,
136 administrative, or criminal actions provided by law and may be imposed
137 against both corporate and individual defendants.