

Meeting Agenda – September 21, 2016

Sober Homes Task Force

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.

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- 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

59 (1) "Agency" means the agency for health care
60 administration.

61 (9) "Commercial Recovery Residence" means: A recovery
62 residence where one or more residents is in treatment, as

63 defined in s.397.311, with a private for profit licensed
64 treatment provider that offers, when market rent is paid, in
65 whole or in part, by the provider or by anyone on behalf of the
66 provider.

67 (24) "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 (51) "Treatment" means: An individual who is currently
74 receiving, about to receive or has recently completed day or
75 night treatment with community housing, or outpatient treatment,
76 including intensive outpatient treatment.

77

78 Section 3. Amending 397.487 requiring mandatory
79 certification of commercial recovery residences and providing
80 for voluntary certification of recovery residences.

81

82 Section 4. Amending chapter 397 by creating Part X to
83 require the licensure of commercial recovery residences:

84

PART X

85

RECOVERY RESIDENCES

86 397.1000 License required; violations

87 397.1001 License application

88 397.1002 License process; fees

89 397.1003 Inspection; right of entry

90 397.1004 Denial, suspension, and revocation of license

91 397.1005 Well-being of residents of commercial recovery
92 residences

93 397.1006 Training and continuing education

94 397.1007 Commercial recovery residence agreements
95 397.1008 Bill of rights
96 397.1009 Civil actions by residents to enforce rights

97
98 **397.1000 License required; violations**

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

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

103 (a) a misdemeanor of the first degree for a first violation,
104 punishable as provided in s. 775.082 or s. 775.083 (b) a felony
105 of the third degree for a second or subsequent violation,
106 punishable as provided in s. 775.082 or s.775.083.

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

119 (4) Violations of the agency's rules and standards
120 established for the operation of a commercial recovery residence
121 shall subject the owner or operator to a fine in an amount not
122 less than \$500. The fine may be levied notwithstanding the
123 correction of the violation. The fine may be levied for each
124 day the agency determines that the violation occurred, and for

125 each day the violation continues beyond any date specified by
126 the agency for correction or compliance.

127

128 **397.1001 License application.**

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

133 (a) Information establishing the name and address of the
134 applicant for a commercial recovery residence license and its
135 recovery residence administrator, and also of each member,
136 owner, officer, and shareholder, if any.

137 (b) Information establishing the competency and ability of
138 the applicant and recovery residence administrator to carry out
139 the requirements and rules of this part.

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

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

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

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

156 obtain the required exemption, during which time the applicant's
157 license remains in effect.

158 (3) If the owner, director, or chief financial officer is
159 arrested or found guilty of, regardless of adjudication or has
160 entered a plea of nolo contendere or guilty to any offense
161 prohibited under the screening standard while acting in that
162 capacity, that person shall immediately be removed from that
163 position and the recovery residence shall notify the agency
164 within 2 days after such removal, excluding weekends and
165 holidays. Failure to remove the owner, director or chief
166 financial officer shall result in the revocation of the
167 commercial recovery residence's license.

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

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

175

176 **397.1002 Licensure process; fees**

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

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

182 (3) Licensure and renewal fees shall be deposited in an
183 appropriate fund of the agency to be used for the actual cost of
184 monitoring, inspecting and overseeing the operations of
185 commercial recovery residences.

186

187 **397.1003 Inspection; right of entry;**

188 (1) An authorized agent of the agency shall upon reasonable
189 notice periodically inspect a recovery residence to determine
190 whether it is in compliance with its license and or a
191 certificate of compliance issued by a credentialing entity.

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

197 (3) An application for licensure as a commercial recovery
198 residence under this part constitutes full permission for an
199 authorized agent of the agency to enter and inspect the
200 commercial recovery residence.

201

202 **397.1004 Denial, suspension, and revocation of license**

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

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

212 (b) Impose an administrative fine of up to \$500 per day
213 against the owner or operator for any violations of this part or
214 failure to comply with the standards maintained by a
215 credentialing entity for the operation of a commercial recovery
216 residence.

217 (c) Suspend or revoke the license of the commercial
218 recovery residence.

219
220 (1) If a commercial recovery residence's license has
221 been revoked, the owner or operator shall be barred from
222 submitting any application for licensure to the agency
223 for one year after the revocation.

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

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

233

234 **397.1005 Well-being of residents of commercial recovery**
235 **residences**

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

240

241 **397.1006 Training and continuing education**

242 All commercial recovery residence owners and operators shall
243 complete training and education programs regarding the
244 requirements of this part and the operation of a commercial
245 recovery residence in accordance with the standards of
246 compliance to be certified as a commercial recovery residence by
247 a credentialing entity. All owners or operators shall be

248 required to participate in periodic continuing education
249 programs as specified by rule.

250

251 **397.1007 Commercial recovery residence agreements**

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

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

265

266 **397.1008 Bill of rights**

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

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

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

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

280 (d) Have unrestricted private communications, including
281 receiving and sending unopened correspondence, having access to
282 a telephone, (e) Be free to participate in and benefit from
283 community services and activities and to achieve the highest
284 possible level of independence, autonomy, and interaction within
285 the community.

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

288 (g) Have reasonable opportunity for regular exercise
289 several times a week and to be outdoors at regular and frequent
290 intervals.

291 (h) Exercise civil and religious liberties, including the
292 right to independent personal decisions. Religious beliefs or
293 practices and attendance at religious services may not be
294 imposed upon a resident.

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

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

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

305 (k) Present grievances and recommend changes to the recovery
306 residence administrator.

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

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

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

313 (c) Files a civil action alleging a violation of this part
314 or notifies a state attorney or the Attorney General of a
315 possible violation of this part.

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

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

329

330 **397.1009 Civil action by residents to enforce rights:**

331 (1) Any resident whose rights as specified in this part are
332 violated has a cause of action against the owner, operator, or
333 recovery residence administrator of a commercial recovery
334 residence who was responsible for the violation. The action may
335 be brought by the resident, or by a person or organization
336 acting on behalf of a resident with the consent of the resident
337 to enforce the right. The action may be brought in any court of

338 competent jurisdiction seeking to enforce such rights and to
339 recover actual damages, and punitive damages when malicious,
340 wanton, or willful disregard of the resident's rights can be
341 shown. Any resident who prevails in any such action is entitled
342 to recover reasonable attorney's fees, costs of the action, and
343 damages, unless the court finds that the resident has acted in
344 bad faith or with malicious purpose or that there was a complete
345 absence of a justiciable issue of either law or fact. A
346 prevailing defendant is entitled to recover reasonable
347 attorney's fees pursuant to s. 57.105. The remedies provided in
348 this section are in addition to other legal and administrative
349 remedies available to a resident or to the agency.

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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, ~~or~~ health care facility, or
3 recovery residence to:

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

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

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

14 (d) Aid, abet, advise, or otherwise participate in the conduct prohibited under paragraph (a),
15 paragraph (b), or paragraph (c).

16 (2) For the purposes of this section, the term:

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

28 (b) “Health care provider network entity” means a corporation, partnership, or limited liability
29 company owned or operated by two or more health care providers and organized for the purpose
30 of entering into agreements with health insurers, health care purchasing groups, or the Medicare
31 or Medicaid program.

32 (c) “Health insurer” means any insurance company authorized to transact health insurance in the
33 state, any insurance company authorized to transact health insurance or casualty insurance in the
34 state that is offering a minimum premium plan or stop-loss coverage for any person or entity
35 providing health care benefits, any self-insurance plan as defined in s. 624.031, any health
36 maintenance organization authorized to transact business in the state pursuant to part I of chapter
37 641, any prepaid health clinic authorized to transact business in the state pursuant to part II of
38 chapter 641, any prepaid limited health service organization authorized to transact business in this
39 state pursuant to chapter 636, any multiple-employer welfare arrangement authorized to transact
40 business in the state pursuant to ss. 624.436-624.45, or any fraternal benefit society providing
41 health benefits to its members as authorized pursuant to chapter 632.

42 (d) “market rent” means...

43 (e) “Recovery residence” means a residential dwelling unit or other form of group housing that is
44 offered or advertised through any means, including oral, written, electronic, or printed means, and
45 any person or entity as a residence that provides a peer-supported, alcohol free, and drug free
46 living environment.

47 (f) “Commercial Recovery Residence” means: A recovery residence where one or more
48 residents is in treatment, as defined in s.397.311, with a private for profit licensed treatment
49 provider that offers substance abuse services through one or more licensed service components,
50 when market rent is paid, in whole or in part, by the provider or by anyone on behalf of the
51 provider.

52 (3) This section shall not apply to:

53 (a) Any discount, payment, waiver of payment, or payment practice not prohibited by
54 42 U.S.C. s. 1320a-7b (b) or regulations promulgated thereunder.

55 (b) Any payment, compensation, or financial arrangement within a group practice as defined in s.
56 456.053, provided such payment, compensation, or arrangement is not to or from persons who are
57 not members of the group practice.

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

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

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

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

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

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

73 (i) Payments by a health care provider or health care facility to a health, mental health, or
74 substance abuse information service that provides information upon request and without charge to
75 consumers about providers of health care goods or services to enable consumers to select
76 appropriate providers or facilities, provided that such information service:

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

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

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

85 4. Charges and collects fees from a health care provider or health care facility participating in its
86 services that are set in advance, are consistent with the fair market value for those information
87 services, and are not based on the potential value of a patient or patients to a health care provider
88 or health care facility or of the goods or services provided by the health care provider or health
89 care facility.

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

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

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

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

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

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

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

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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
17 one or more residents is in treatment, as defined in s.397.311, with a
18 private for profit licensed treatment provider that offers, when market
19 rent is paid, in whole or in part, by the provider or by anyone on behalf
20 of the provider.

21 (c) "Market Rent" means(3)

22 The department shall approve at least one credentialing entity by
23 December 1, 2015 for the purpose of developing and administering a
24 voluntary certification program for recovery residences. The approved
25 credentialing entity shall:

26 (a)Establish recovery residence certification requirements

27 (b)Establish procedures to:

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

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

35 (d)Develop a code of ethics

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

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

47 (a)A policy and procedures manual containing:

48 1. Job descriptions for all staff positions.

49 2. Drug-testing procedures and requirements

50 3. A prohibition on the premises against alcohol, illegal drugs, and
51 the use of prescribed medications by an individual other than the
52 individual for whom the medication is prescribed.

53 4. Policies to support a resident's recovery efforts.

54 5. A good neighbor policy to address neighborhood concerns and
55 complaints.

56 (b)Rules for residents.

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

58 (d)Intake procedures.

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

60 (f)Relapse policy.

61 (g)Fee schedule.

62 (h)Refund policy.

63 (i)Eviction procedures and policy

64 (j)Code of ethics

65 (k)Proof of insurance.

66 (l)Proof of background screening

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

68 (4)A certified recovery residence must be actively managed by a certified
69 recovery residence administrator. All applications for certification must

70 include the name of the certified recovery residence administrator who
71 will be actively managing the applicant recovery residence.

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

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

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

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

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

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

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

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

116 (9)A person may not advertise to the public, in any way or by any medium
117 whatsoever, any recovery residence as a "certified recovery residence"
118 unless such recovery residence has first secured a certificate of
119 compliance under this section. A person who violates this subsection
120 commits a misdemeanor of the first degree, punishable as provided in s.
121 775.082 or s. 775.083.

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

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