Agenda – May 14, 2025
State Attorney Addiction Recovery Task Force (SAART)

1. Introduction
2. Updates:
    a. PBC ME & FR OD Statistics: Al Johnson-attachment
    b. FARR: Michael Schlossman-attachment
    c. Oxford House: Michael McKeough
3. PBCHCD Crisis Center Update: Dr. Belma Andric
4. EMS Statewide Hospital Bridge Program: Houston Park
5. CORE Statewide Program Update: DCF
6. MAT Bed Capacity- Statewide: Michael Schlossman-attachment
7. 2025 Legislation:
    a. SB954 Enrolled.-attachment
    b. SB464-attachment
    c. Chapter 419 rewrite-attachment
8. SAART Comments.-The July meeting is scheduled for July 9th
9. Public comments.
10. Closing remarks.

OFFICE OF THE STATE ATTORNEY

FIFTEENTH JUDICAL CIRCUIT
IN AND FOR PALM BEACH COUNTY

ALEXCIA COX
STATE ATTORNEY

SOBER HOMES TASK FORCE TIP LINE-1-844-324-5463

STATE ATTORNEY ADDICTION RECOVERY TASK FORCE (SAART)

2025	
January 15, 2025	Wednesday
February	No Meeting
March 19, 2025	Wednesday
April	No Meeting
May 14, 2025	Wednesday
June	No Meeting
July 9, 2025	Wednesday
August	No Meeting
September 17, 2025	Wednesday
October	No Meeting
November 19, 2025	Wednesday
December	No Meeting

All meetings are 1pm to 4pm

Please request a zoom link by emailing Mary Ann Senatore-msenatore@sa15.org

Information updated Friday, November 22, 2024

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2023/2024 PBCME Opiate OD Deaths

- **PBC Medical Examiner – 2023- January 1 – December 31 - no pending cases**
  - Total drug overdose cases 533
  - Total opioid OD deaths 439 (83% of total OD cases)
  - Total Fentanyl & Fentanyl analog cause or presence 381 (87%)**
  - **Previous Decline in Opioid OD deaths - 2022/2023 (0%)**

- **PBC Medical Examiner –2024 - January 1 - December 31, 2024 - No pending cases**
  - Total drug overdose cases 343
  - Total opioid OD deaths 244 (71% of total OD cases)
  - Total fentanyl & fentanyl analog cause or presence 222 (91%)
  - **Decline in Opioid OD deaths - 2023/2024 (<44%)**

Xylazine: "tranq" non-opioid animal tranquilizer – 2023-34/ 2024- 27

New Fentanyl analogues:

- Fleurofentanyl – similar potency to Fentanyl – 2023-66/ 2024-60
- Carfentanil – 2023-12/ 2024-3

FARR FLORIDA ASSOCIATION OF RECOVERY RESIDENCES

State Attorney Addiction Recovery Task Force May, 2025

STATEWIDE PROGRAMS CERTIFIED - 272

May 2025:

	Units: 1,955	
	Beds: 9,760	
Levels I, II & III:	**Units: 1,014**	**Beds: 5,701**
Level IV:	**Units: 941**	**Beds: 4,059**

- **Broward County has 31% of the units and 27% of the beds.**
- **Palm Beach County has 38.9% of the units and 37.1% of the beds.**

PALM BEACH COUNTY NUMBERS

- **108 Certified Providers**
- 761 Units, 3,627 Beds (Men: 1,810, Women: 571, Both: 1,220, LGBTQ+: 26)

Level I: 1 Programs, 1 Units, 6 Beds
Level II: 65 Programs, 350 Units, 1,786 Beds
Level III: 1 Programs, 1 Units, 8 Beds
Level IV: 50 Programs, 409 Units, 1,827 Beds

FLORIDA COUNTIES

County	Units	Beds
Alachua	4	20
Brevard	19	210
Broward	608	2,687
Clay	1	8
Collier	9	63
Duval	54	348
Escambia	14	65
Flagler	10	74
Hillsborough	90	486
Indian River	23	137
Lee	49	337
Manatee	22	111
Marion	2	9
Martin	20	128
Miami-Dade	31	244
Orange	26	200
Okaloosa	0	0
Palm Beach	761	3,627
Pasco	39	188
Pinellas	87	299
Polk	3	19
Santa Rosa	4	52
Sarasota	28	144
Seminole	3	24
St. John's	2	15
St. Lucie	28	136
Volusia	18	129

RUNNING TOTALS

STATE CAPACITY TREND

FARR

July	2017	3,280	beds
January	2018	4,153	beds
January	2019	5,786	beds
January	2020	5,781	beds
January	2021	6,715	beds
January	2022	6,872	beds
January	2023	8,122	beds
July	2024	9,497	beds
January	2025	9,440	beds
February	2025	9,486	beds
March	2025	9,511	
April	2025	9,760	

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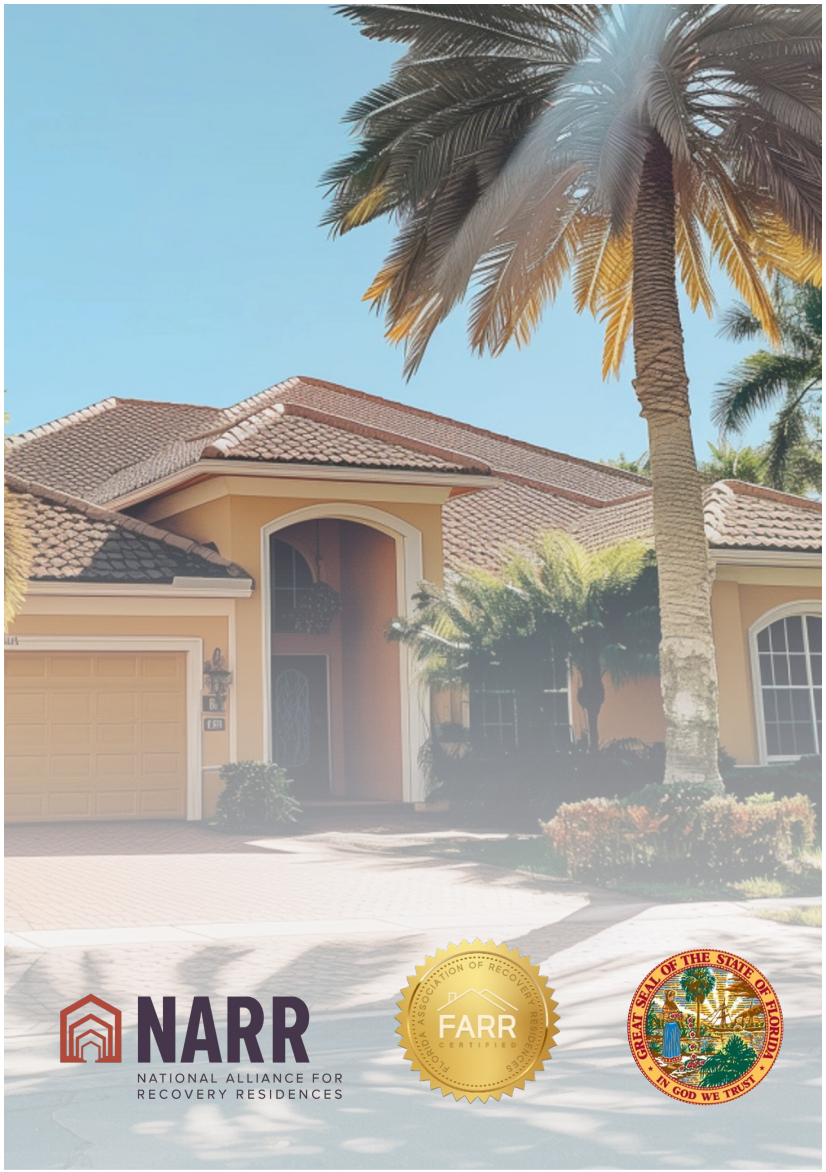
FARR
FLORIDA ASSOCIATION OF RECOVERY RESIDENCES

MAT Education & Outreach - Update



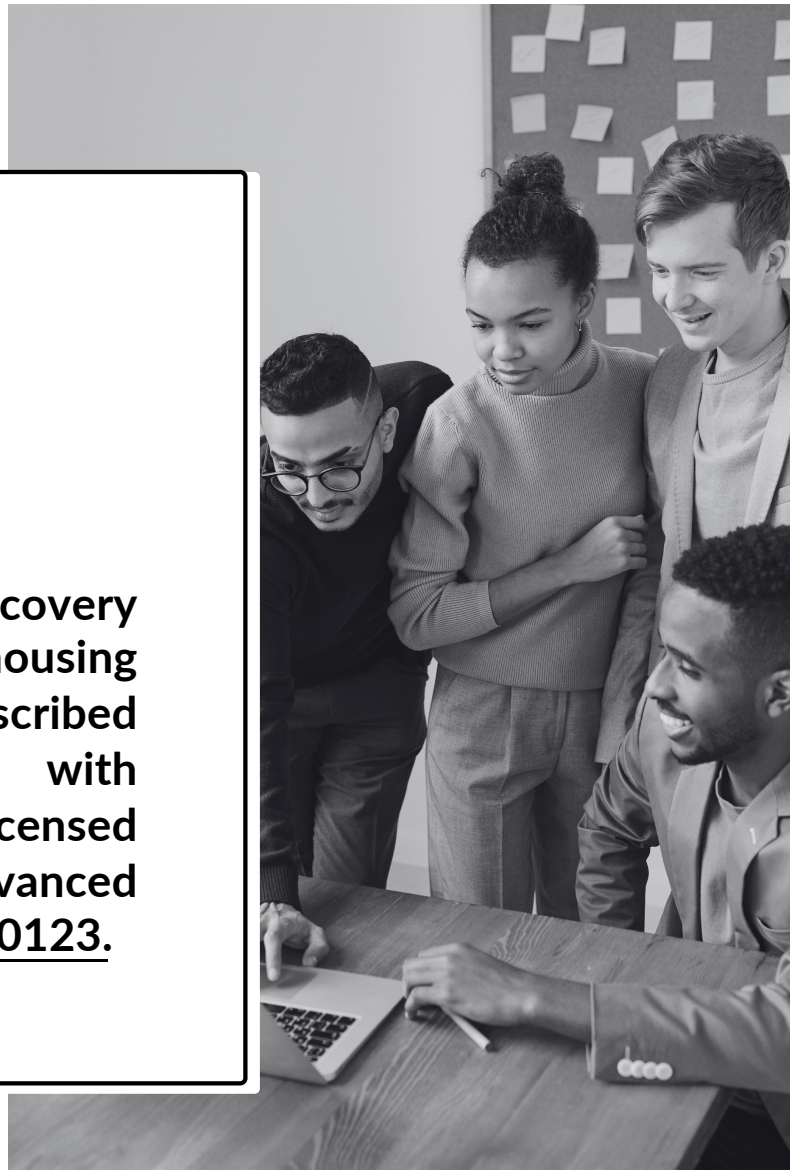
Presented by:
Michael Schlossman, CEO/Chief Legal Officer

www.farronline.org 561-299-0405 info@farronline.org

New Legislation - Jan 1, 2025

Fl Stat 397.487(13):

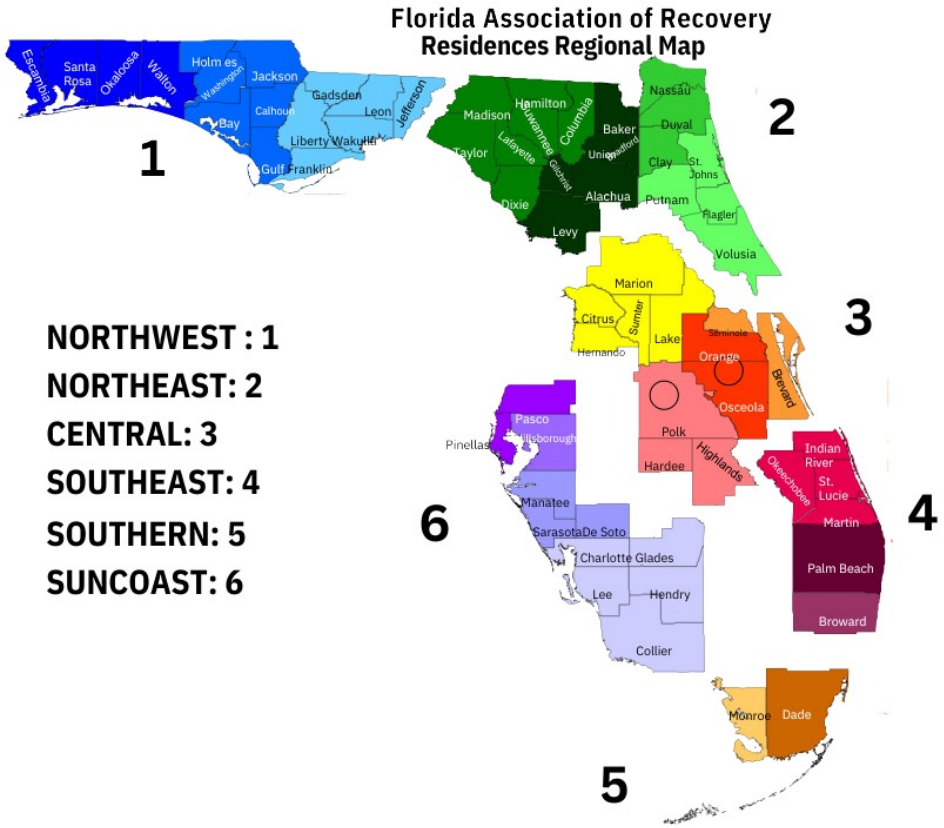
Beginning January 1, 2025, a certified recovery residence may not deny an individual access to housing solely on the basis that he or she has been prescribed federally approved medication that assists with treatment for substance use disorders by a licensed physician, a physician's assistant, or an advanced practice registered nurse registered under s. 464.0123.



FARR FLORIDA ASSOCIATION OF RECOVERY RESIDENCES

NARR NATIONAL ALLIANCE FOR RECOVERY RESIDENCES

Florida Association of Recovery Residences Regional Map



NORTHWEST : 1

NORTHEAST: 2

CENTRAL: 3

SOUTHEAST: 4

SOUTHERN: 5

SUNCOAST: 6

FARR FLORIDA ASSOCIATION OF RECOVERY RESIDENCES

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Visited

- Port St. Lucie
- Ft. Lauderdale
- Palm Beach Co.
- Tampa
- Jacksonville
- Sarasota
- Pensacola
- Venice
- Orlando

Coming Up

- Miami (May 15)
- New Smyrna Beach (May 22)
- * Boca Raton (FAU) (June 18)

www.farronline.org

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Additional Outreach

- Quarterly Provider Meetings
- Email Blasts
- Newsletters
- Website (new video)
- 1:1 Meetings with Providers
- CEU Credits: FCB Provider #5521-SS

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More to come…

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Section 1. Chapter 419, Florida Statutes, is stricken and replaced to read:

~~CHAPTER 419 COMMUNITY RESIDENTIAL HOMES~~

~~419.001. Site selection of community residential homes~~

~~(1) For the purposes of this section, the term:~~

~~(a) "Community residential home" means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.~~

~~(b) "Licensing entity" or "licensing entities" means the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, the Department of Children and Families, or the Agency for Health Care Administration, all of which are authorized to license a community residential home to serve residents.~~

~~(c) "Local government" means a county as set forth in chapter 7 or a municipality incorporated under the provisions of chapter 165.~~

~~(d) "Planned residential community" means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. 393.063 but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents' freedom of movement within and outside the community may not be restricted. For the purposes of this paragraph, local government~~

~~approval must be based on criteria that include, but are not limited to, compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.~~

~~(e) "Resident" means any of the following: a frail elder as defined in s. 429.65; a person who has a disability as defined in s. 760.22(3)(a); a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.~~

~~(f) "Sponsoring agency" means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home.~~

~~(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes are not located within a radius of 1,000 feet of another existing such home with six or fewer residents or within a radius of 1,200 feet of another existing community residential home. Such homes with six or fewer residents are not required to comply with the notification provisions of this section; provided that, before licensure, the sponsoring agency provides the local government with the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that there is not a home of~~

~~six or fewer residents which otherwise meets the definition of a community residential home within a radius of 1,000 feet and not a community residential home within a radius of 1,200 feet of the proposed home. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity. For purposes of local land use and zoning determinations, this subsection does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016.~~

~~(3)(a) When a site for a community residential home has been selected by a sponsoring agency in an area zoned for multifamily, the agency shall notify the chief executive officer of the local government in writing and include in such notice the specific address of the site, the residential licensing category, the number of residents, and the community support requirements of the program. Such notice shall also contain a statement from the licensing entity indicating the licensing status of the proposed community residential home and specifying how the home meets applicable licensing criteria for the safe care and supervision of the clients in the home. The sponsoring agency shall also provide to the local government the most recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located. The local government shall review the notification of the sponsoring agency in accordance with the zoning ordinance of the jurisdiction.~~

~~(b) Pursuant to such review, the local government may:~~

~~1. Determine that the siting of the community residential home is in accordance with local zoning and approve the siting. If the siting is approved, the sponsoring agency may establish the home at the site selected.~~

~~2. Fail to respond within 60 days. If the local government fails to respond within such time, the sponsoring agency may establish the home at the site selected.~~

~~3. Deny the siting of the home.~~

~~(c) The local government shall not deny the siting of a community residential home unless the local government establishes that the siting of the home at the site selected:~~

~~1. Does not otherwise conform to existing zoning regulations applicable to other multifamily uses in the area.~~

~~2. Does not meet applicable licensing criteria established and determined by the licensing entity, including requirements that the home be located to assure the safe care and supervision of all clients in the home.~~

~~3. Would result in such a concentration of community residential homes in the area in proximity to the site selected, or would result in a combination of such homes with other residences in the community, such that the nature and character of the area would be substantially altered. A home that is located within a radius of 1,200 feet of another existing community residential home in a multifamily zone shall be an overconcentration of such homes that substantially alters the nature and character of the area. A home that is located within a radius of 500 feet of an area of single-family zoning substantially alters the nature and character of the area.~~

~~(4) Community residential homes, including homes of six or fewer residents which would otherwise meet the definition of a community residential home, which are located within a planned residential community are not subject to the proximity requirements of this section and may be contiguous to each other. A planned residential community must comply with the applicable local government's land development code and other local ordinances. A local government may not impose proximity limitations between homes within a planned residential community if such limitations are based solely on the types of residents anticipated to be living in the community.~~

~~(5) All distance requirements in this section shall be measured from the nearest point of the existing home or area of single-family zoning to the nearest point of the proposed home.~~

~~(6) If agreed to by both the local government and the sponsoring agency, a conflict may be resolved through informal mediation. The local government shall arrange for the services of an independent mediator. Mediation shall be concluded within 45 days of a request therefor. The resolution of any issue through the mediation process shall not alter any person's right to a judicial determination of any issue if that person is entitled to such a determination under statutory or common law.~~

~~(7) The licensing entity shall not issue a license to a sponsoring agency for operation of a community residential home if the sponsoring agency does not notify the local government of its intention to establish a program, as required by subsection (3). A license issued without compliance with the provisions of this section shall be considered null and void, and continued operation of the home may be enjoined.~~

~~(8) A dwelling unit housing a community residential home established pursuant to this section shall be subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which it is established.~~

~~(9) Nothing in this section shall be deemed to affect the authority of any community residential home lawfully established prior to October 1, 1989, to continue to operate.~~

~~(10) Nothing in this section shall permit persons to occupy a community residential home who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.~~

~~(11) The siting of community residential homes in areas zoned for single family shall be governed by local zoning ordinances. Nothing in this section prohibits a local government from authorizing the development of community residential homes in areas zoned for single family.~~

~~(12) Nothing in this section requires any local government to adopt a new ordinance if it has in place an ordinance governing the placement of community residential homes that meet the criteria of this section. State law on community residential homes controls over local ordinances, but nothing in this section prohibits a local government from adopting more liberal standards for siting such homes.~~

CHAPTER 419 SITE SELECTION OF COMMUNITY RESIDENCES AND RECOVERY COMMUNITIES.-

419.001 Definitions.— As used in this chapter, the term:

(1) "Community residence" means a residential living arrangement, with the exceptions established in s419.002(1), (2), and (3), for up to 12 unrelated individuals with disabilities living as a single functional family in a dwelling unit, town home, duplex, or triplex who need the mutual support furnished by other residents of the dwelling as well as the support services, if any, provided by any staff of the community residence. Residents may be self-governing or supervised by a sponsoring entity or its staff, which provide habilitative or rehabilitative services related to the residents' disabilities. A community residence emulates a biological family to foster normalization of its residents, integrate them into the surrounding community, and use neighbors as role models for those residents capable of going into the community and interacting with neighbors. Supportive inter-relationships between residents are an essential component. Its primary purpose is to provide shelter; foster and facilitate life skills; and meet the physical, emotional, and social needs of the residents in a mutually supportive family-like environment. Community residences include, but are not limited to, those residences licensed by the Florida Agency for Persons with Disabilities, the Florida Department of Elder Affairs, the Florida Agency for Health Care Administration, and the Florida Department of Children and Families, and Recovery Residences certified as Level 1 or 2 by the state's designated credentialing entity established under S. 397.487, and recovery

residences democratically operated by their residents pursuant to a charter from an entity recognized or sanctioned by Congress. A community residence shall be considered a residential use of property for purposes of all local government land-use and zoning codes.

(2) "Congregate living facility" means a group living arrangement that provides long-term care, accommodations, food service, and one or more personal care services to people without disabilities and not related to the owner or administrator by blood or marriage. A congregate living facility may be a group living arrangement too large to emulate a family, a group living arrangement in which normalization and/or community integration are not integral elements, an intermediate care or assisted living facility that does not emulate a family, a group living arrangement that is an alternative to incarceration for people who pose a direct threat to the health or safety of others, a group living arrangement for people undergoing treatment in a program at the same site, or a facility for the treatment of substance use disorder where treatment is the primary purpose and use, whether it provides only services or includes a residential component on site. A congregate living facility is not a community residence or a recovery community.

(3) "Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, impairs an individual's ability to live independently, having a record of such an impairment, or being regarded as having such an impairment as defined in the Federal Fair Housing Act and Americans With Disabilities Act. People with disabilities do not include individuals who are currently using alcohol, illegal drugs, or using legal drugs to which they are addicted, nor individuals who constitute a direct threat to the health and safety of others. People with disabilities include, but are not limited to:

(a) An elderly person with disabilities as defined in s.429.65(9)

(b) A person with physical disabilities as defined in s.760.22(7)(a)

(c) A person with developmental disabilities as defined in s.393.063(11)

(d) A person with mental illness as defined in s.394.455(3)

(e) A person in recovery from substance abuse, as defined in s.397.311(48)

(4) "Family community residence" means a community residence that provides a relatively permanent living arrangement and does not limit how long a resident may live there. The intent is for residents to live in the family community residence on a long-term basis of at least six months. Typical uses can include, but are not limited to, the following:

(a) A community residential home for people with disabilities who do not pose a threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(b) Group homes for people with disabilities that emulate a family, including, but not limited to, people with mental illness, substance use disorder, or physical disabilities

(c) An assisted living facility for the elderly or other people with disabilities licensed under s.429.02(5)

(d) An adult family-care home licensed under Florida s.429.60

(e) An intermediate care facility for people with developmental disabilities licensed under s.400.96

(f) Housing licensed under ch.394

(g) Recovery residences certified under s.397.487, typically Levels 1 and 2 certified recovery residences, where residency is at least six months)

(h) Recovery residences democratically operated by their residents pursuant to a charter from an entity recognized or sanctioned by Congress.

(5) "Local government" means a county as set forth in ch.125 or a municipality incorporated under the provisions of chapter 166.

(6) "Planned residential community" means a local government-approved, planned unit development that is under unified control, is planned and developed as a whole, has a minimum gross lot area of 8 acres, and has amenities that are designed to serve residents with a developmental disability as defined in s. 393.063 but that shall also provide housing options for other individuals. The community shall provide choices with regard to housing arrangements, support providers, and activities. The residents' freedom of movement within and outside the community is not restricted. For the purposes of this subsection, local government approval must be based on criteria that include, but are not limited to; compliance with appropriate land use, zoning, and building codes. A planned residential community may contain two or more community residential homes that are contiguous to one another. A planned residential community may not be located within a 10-mile radius of any other planned residential community.

(7) "Reasonable accommodation" means providing an individual or individuals with a disability and providers of housing for individuals with a disability, as defined in this section, flexibility in the application of land use, zoning and building code regulations, practices, procedures, or policies, including the modification or waiver of certain requirements when it is necessary to give a person with a disability an equal opportunity to use and enjoy a dwelling, within the meaning of 42 U.S.C s.3604(f).

(8) "Recovery community" means multiple dwelling units in multifamily housing districts including duplexes, triplexes, and quadraplexes; attached single-family dwellings; or a group of these types of dwellings that are not held out to the general public for

rent or occupancy, that provide a mutually supportive drug-free and alcohol-free living arrangement for people in recovery from substance use disorder which, taken together, do not emulate a single biological family and are under the auspices of a single sponsoring agency or group of related sponsoring agencies. Recovery communities include land uses for which the operator is eligible to apply for certification pursuant to s. 397.487. The term does not include any other group living arrangements for people who are not disabled nor any community residence, congregate living facility, institutional or medical use, shelter, lodging or boarding house, extended stay hotel, nursing home, vacation rental, or other like use.

(9) "Recovery residence" means a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, that provides a peer-supported, alcohol-free, and drug-free living environment as defined in s. 397.311(39).

(10)"Resident" means any of the following: a frail elder as defined in s. 429.65; a person who has a disability as defined in s. 760.22(3)(a); a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455, or a person in recovery from a substance use disorder abuse as defined in s. 397.311(48); and live-in staff.

(11) "Sponsoring agency" means an agency or unit of government, a profit or nonprofit agency, or any other person or organization which intends to establish or operate a community residential home community residence, or recovery community.

(12) "Transitional community residence" means a community residence that provides a relatively temporary living arrangement for unrelated people with disabilities with a limit on length of tenancy, typically less than six months, which may be measured in weeks or months. Typical uses can include, but are not limited to, the following:

(a) Group homes for people with disabilities that emulate a family, including, but not limited to, people with mental illness, substance use disorder, or physical disabilities

(b) Community residential home for people with disabilities who do not pose threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(c) Housing connected to outpatient treatment licensed under ch.394.

(d) Level 3 and 4 certified recovery residences as defined in s. 397.311(48).

(e) The separate community housing component for people with substance use disorder who may be undergoing detoxification or treatment at another location such as a day or night residential treatment center licensed under chapter 397.

419.002. Restrictions on site selection of community residences, exemptions.—

(1) When a local government's land use or zoning code establishes a maximum number of unrelated individuals that constitute a "family" or "household" or similar term, a community residence occupied by no more than the maximum number of unrelated individuals that constitute a "family" or "household" or similar term shall constitute a "family" or "household" or similar term and shall not be subject to this chapter.

(2) When a local government's land use or zoning code allows any number of unrelated people to constitute a "family" or "household" or similar term, all community residences shall constitute a "family" or "household" or similar term and shall not be subject to this chapter.

(3) When a local government's land use or zoning code does not define "family," "household," or define a similar term, community residences shall be allowed as of right in all zoning districts

where residential uses are permitted and shall not be subject to this chapter

(4) A community residence that is exempted from this section under subsections (1), 2, and (3) shall not be used to determine distances between community residences, recovery communities, or congregate living facilities under this chapter.

(5) All distance requirements in this chapter shall be measured from the lot line of the existing community residence, recovery community, or congregate living facility nearest to the proposed community residence to the lot line of the proposed community residence nearest to the closest existing community residence, recovery community, or congregate living facility.

(5) A local government shall revoke zoning approval when the operator of a community residence fails to provide evidence of permanent licensure, certification, or is not operated pursuant to a charter from an entity recognized or sanctioned by Congress. An operator that has not received licensure, certification, or charter; or where a license or certification was denied or revoked, shall not be allowed to operate in the State of Florida and zoning approval shall become null and void upon termination of such license, certification, or charter. An operator must notify the designated local government official that its license, certification, or charter has been, denied, suspended or revoked within five-calendar days of the operator being notified of the denial suspension or revocation. Such operator shall cease operation and vacate the premises within 60-calendar days of the date of denial, suspension or revocation, and the operator of the community residence shall safely return residents to their families or relocate them to a safe and secure living environment.

(6) For purposes of local land use and zoning determinations, this subsection does not affect the legal nonconforming use status of any community residence lawfully permitted and operating prior to July 1, 2025.

(7) Nothing in this section shall be deemed to affect the authority of any community residence lawfully established prior to July 1, 2025, to continue to operate.

(8) Nothing in this section shall permit persons to occupy a community residence ~~or~~ who would constitute a direct threat to the health and safety of other persons or whose residency would result in substantial physical damage to the property of others.

(9) Nothing in this section requires any local government to create an ordinance or adopt a new ordinance if it has in place an ordinance governing the placement of community residences that is in substantial compliance with the criteria of this ~~section~~ chapter.

419.003 Community residences; permitted use.—

(1) Family community residences constitute a residential use allowed as of right in all zoning districts where single-family residences are allowed and transitional community residences constitute a residential use allowed as of right in all zoning districts where duplexes, triplexes, or other forms of multi-family structures are allowed, provided that:

(a) Such community residences are not located within a radius of 660 feet or 9 lots, whichever is greater, from the closest existing community residence, recovery community, or congregate living facility; and

(b) Such community residences have been issued and maintain:

(i) The license, certification or charter required to operate the proposed family community residence; or

(ii) A provisional or conditional license, certification or charter during an application process as determined by the designated licensing, certifying or chartering entity;

(c) No more than twelve individuals will occupy the community residence subject to the local government's standard housing, building, or property maintenance code's provisions to prevent

overcrowding, except that fourteen people may occupy a community residence licensed as a "community residential home."

(2) A community residence that does not comply with s. 419.002 (1) (a), (b), or (c) shall be approved when it meets the standards for a reasonable accommodation in 419.004.

419.004 Community residences; reasonable accommodation.—

(1) A proposed community residence that does not comply with standards in s.419.002 shall be allowed as a reasonable accommodation through the local government's chosen zoning process or dedicated reasonable accommodation process, when:

(a) The proposed location is within 660 linear feet or 9 lots, whichever is greater, of the closest existing community residence, recovery community, or congregate living facility. A reasonable accommodation shall be granted only when it is found that the applicant has demonstrated that:

(i) The proposed community residence will not interfere with the normalization and community integration of the residents of the closest existing community residence or recovery community and that the closest community residence, recovery community, or congregate living facility will not interfere with the normalization and community integration of the residents of the proposed community residence. Primary factors when determining compliance with this provision include:

1. The on-the-ground distance along the pedestrian right of way,

2. The likelihood of residents of each site interacting with residents of the other site, and

3. Whether the residents of both sites have different Disabilities or no disability.

(ii) The proposed community residence in combination with any existing community residences, recovery communities, and/or congregate living facilities will not alter the residential

character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying an institutional atmosphere or de facto social service district by clustering community residences, recovery communities, and/or congregate living facilities on a block face or concentrating them in a neighborhood.

(b) When the State of Florida does not offer a license or certification for the type of community residence proposed and the population it would serve, or the community residence proposed is not eligible for a charter for recovery residences democratically operated by its residents from an entity recognized or sanctioned by Congress, a reasonable accommodation through the local government's chosen zoning process shall be approved only when it is found that the applicant has demonstrated that:

(i) The proposed community residence will be operated in a manner effectively similar to that of a licensed or certified community residence; and

(ii) Staff who reside and/or work in the community residence will be adequately trained in accordance with standards typically required by licensing or state certification for a community residence; and

(iii) The community residence will emulate a biological family and be operated to achieve normalization and community integration; and

(iv) The rules and practices governing how the community residence operates will actually protect the residents from abuse, exploitation, fraud, theft, neglect, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.

(c) A community residence may house more than twelve unrelated people by obtaining a reasonable accommodation through the local government's chosen zoning process. The reasonable accommodation shall be approved only when it is found that the applicant has demonstrated that:

(i) The proposed number of residents greater than twelve is necessary to ensure the therapeutic and/or financial viability of the proposed community residence; and

(ii) The primary function of the proposed community residence is residential where any medical treatment is merely incidental to the residential use of the property; and

(iii) The proposed community residence will emulate a biological family and operate as a functional family rather than as a boarding or rooming house; nursing home; short term rental; continuing care facility; motel; hotel; treatment center; rehabilitation center; institutional use; assisted living facility or community residential home that does not comport with the definition of community residence; or other nonresidential use; and

(iv) The requested number of residents in the proposed community residence will not interfere with the normalization and community integration of the occupants of closest existing community residence or recovery community per s. 419.003(a).

(2) Transitional community residences shall be allowed in single-family zoning districts where duplexes and other forms of multi-family housing are prohibited as a reasonable accommodation through the local government's chosen zoning process provided that:

(a) The proposed transitional community residence complies with s. 419.002 and s. 419.003, and

(b) The transitional community residence is found to be compatible with the residential uses allowed as of right in the zoning district.

419.005 Recovery communities as a permitted use.—

(1) Recovery communities constitute a residential use allowed as of right in all zoning districts where duplexes, triplexes, and other forms of multi-family structures are allowed, provided that:

(a) The operator or applicant has receives and maintains provisional and then permanent certification from the designated certifying entity as established by s. 397.487; and

(b) A proposed recovery community housing up to 16 occupants is located at least 660 feet or nine lots, whichever is greater, from the closest recovery community, community residence, or congregate living facility; and

(c) A proposed recovery community housing 17 to 30 occupants is located at least 900 feet or twelve lots, whichever is greater, from the closest recovery community or community residence; and

(d) A proposed recovery community housing 31 to 50 occupants is located at least 1,300 feet or fourteen lots, whichever is greater, from the closest recovery community, community residence, or congregate living facility; and

(e) A proposed recovery community housing 51 to 100 occupants is located at least 1,300 feet or sixteen lots, whichever is greater, from the closest recovery community, community residence, or congregate living facility; and

(f) A proposed recovery community housing more than 100 occupants is located at least 1,500 feet or twenty lots, whichever is greater from the closest recovery community, community residence, or congregate living facility.

(2) All distance requirements in this section and s.419.005 shall be measured from the lot line of the existing community residence, recovery community, congregate living facility nearest to the proposed recovery community to the lot line of the proposed recovery community nearest to the closest existing community residence, recovery community, or congregate living facility.

(3) An operator of a recovery community that has not received certification; or where a certification was denied, or revoked, shall not be allowed to operate in the State of Florida and zoning approval shall become null and void upon termination of such certification. An operator must notify the designated local

559 government official that its certification has been denied,
560 revoked within five-calendar days of the operator being notified
561 of the denial or revocation. Such operator shall cease operation
562 and vacate the premises within 60-calendar days of the date of
563 denial or revocation and the operator shall safely return residents
564 to their families or relocate them to a safe and secure living
565 environment.

566 (4) For purposes of local land use and zoning determinations,
567 this section and s.419.005 do not affect the legal nonconforming
568 use status of any recovery community lawfully permitted and
569 operating as of July 1, 2025.

570 (5) Nothing in this section or s. 419.005 shall be deemed to
571 affect the authority of any recovery community lawfully established
572 prior to July 1, 2025, to continue to operate.

573 (6) Nothing in this section or s. 419.005 shall permit persons to
574 occupy a recovery community or who would constitute a direct threat
575 to the health and safety of other persons or whose residency would
576 result in substantial physical damage to the property of others.

577 (7) Nothing in this section or s. 419.005 requires any local
578 government to adopt a new ordinance if it has in place an ordinance
579 governing the placement of recovery communities that meet the
580 criteria of this section. State law on recovery communities
581 controls over local ordinances, but nothing in this section
582 prohibits a local government from adopting lesser standards for
583 siting recovery communities.

584 **419.006 Recovery communities as reasonable accommodation.—**

585 (1) A recovery community proposed to be located within the spacing
586 distances specified in s. 419.005 from the closest existing
587 community residence, recovery community, or congregate living
588 facility shall be allowed as a reasonable accommodation through
589 the local government's chosen zoning process or dedicated

reasonable accommodation process, when it is found that the applicant has demonstrated that:

(a) The proposed recovery community will not interfere with the normalization and community integration of the residents of the closest existing community residence or recovery community and that the closest existing community residence, recovery community, or congregate living facility will not interfere with the normalization and community integration of the residents of the proposed recovery community. primary factors when determining compliance with this provision include:

1. The on-the-ground distance along the pedestrian right of way,

2. The likelihood of residents of each site interacting with residents of the other site, and

3. Whether the residents of both sites have different Disabilities or no disability.

(b) The proposed recovery community in combination with any existing community residences, recovery communities, and/or congregate living facilities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying an institutional atmosphere or de facto social service district by clustering recovery communities, community residences, or congregate living facilities on a block face or concentrating them in a neighborhood.

419.007 Congregate living facilities; permitted use. –

(1) Congregate living facilities constitute a permitted use allowed as of right in medical, commercial, business, mixed-use, and other nonresidential zoning, provided that:

(a) Such congregate living facilities are not located within a radius of 1,200 feet or 13 lots, whichever is greater, from the closest existing community residence, recovery community, or congregate living facility; and

(b) Such congregate living facilities have been issued and maintain:

(i) The license or certification required to operate the proposed congregate living facility; or

(ii) A provisional or conditional license or certification during an application process as determined by the designated licensing or certifying entity.

(2) Nothing in this chapter prohibits a local government from allowing in residential zoning districts congregate living facilities that comply with the standards in s. 419.007(1)(a) and (b).

(3) An operator of a congregate living facility that has not received licensure or certification; or where a license or certification was denied, suspended or revoked, shall not be allowed to operate in the State of Florida and zoning approval shall become null and void upon termination of such licensure or certification. An operator must notify the designated local government official that its license or certification has been denied, suspended or revoked within five-calendar days of the operator being notified of the denial, suspension or revocation. Such operator shall cease operation and vacate the premises within 60-calendar days of the date of denial or revocation and the operator shall safely return residents to their families or relocate them to a safe and secure living environment.

(4) For purposes of local land use and zoning determinations, this subsection does not affect the legal nonconforming use status of any congregate living facility lawfully permitted and operating prior to July 1, 2025.

(5) Nothing in this section shall be deemed to affect the authority of any congregate living facility lawfully established prior to July 1, 2025, to continue to operate.

(6) Nothing in this section requires any local government to create an ordinance or adopt a new ordinance if it has in place an

ordinance governing the placement of congregate living facility that is in substantial compliance with the criteria of this chapter.

419.008 Congregate living facilities; exception –

(1) A proposed congregate living facility that does not comply with the standard in s.419.007(1)(a) shall be allowed through the local government's chosen zoning process when:

(a) The proposed congregate living facility will not interfere with the normalization and community integration of the residents of the closest existing community residence or recovery community. Primary factors when determining compliance with this provision include:

(1) The on-the-ground distance along the pedestrian right of way, and

(2) The likelihood of residents of each site interacting with residents of the other site.

(b) The proposed congregate living facility in combination with any existing community residences, recovery communities, and/or congregate living facilities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying an institutional atmosphere or de facto social service district by clustering community residences, recovery communities, and/or congregate living facilities on a block face or concentrating them in a neighborhood.

419.009 Community residences, recovery communities, and congregate living facilities; applicable spacing distance, assistance.—

(1) A local government shall respond in writing within ten business days to a request from a housing provider as to whether a proposed site for a community residence, recovery community, or congregate living facility is within the applicable spacing distance established by this chapter from any existing community residence. recovery community, or congregate living facility. The response

shall include the distance calculation relied upon for a denial of an otherwise permitted use.

(2) When a proposed community residence, recovery community, or congregate living facility is within the applicable spacing distance established by this chapter, the local government shall, if requested, provide to the applicant in writing the following information:

(a) The address of the existing community residence, recovery community, or congregate living facility within whose spacing distance the proposed site is located, and

(b) The exact distance of the proposed site from the existing community residence, recovery community, or congregate living facility; and

(c) The general nature of the disabilities of the occupants of the existing community residence or recovery community and/or nature of the population served by the existing congregate living facility.

(d) The addresses and general nature of the residents' disabilities in any additional existing community residences and recovery communities as well as the nature of the population served at any congregate living facilities within a half mile radius of the proposed site.

An act relating to certified recovery residences; amending s. 397.487, F.S.; requiring, by a specified date, the governing body of each county or municipality to adopt an ordinance to establish procedures for the review and approval of certified recovery residences; requiring that such ordinance include a process for requesting reasonable accommodations from any local land use regulation that serves to prohibit the establishment of a certified recovery residence; specifying criteria for the ordinance; providing that the ordinance may establish additional requirements for the review and approval of reasonable accommodation requests; requiring that such additional requirements be consistent with federal law and not conflict with the act; prohibiting the ordinance from requiring public hearings beyond the minimum required by law; providing that the ordinance may include provisions for revocation of a granted accommodation for cause, if the accommodation is not reinstated within a specified timeframe; providing construction; amending s. 397.4871, F.S.; providing that the personnel-to-resident ratio for a certified recovery residence must be met only when the residents are at the residence; providing that a certified recovery residence administrator for Level IV certified recovery residences which maintains a specified personnel-to-patient ratio has a limitation on the number of residents it may manage; providing an

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effective date.

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

Section 1. Subsections (15) and (16) are added to section 397.487, Florida Statutes, to read:

397.487 Voluntary certification of recovery residences.—

(15)(a) By January 1, 2026, the governing body of each county or municipality shall adopt an ordinance establishing procedures for the review and approval of certified recovery residences within its jurisdiction. The ordinance must include a process for requesting reasonable accommodations from any local land use regulation that serves to prohibit the establishment of a certified recovery residence.

(b) At a minimum, the ordinance must:

1. Be consistent with the Fair Housing Amendments Act of 1988, 42 U.S.C. ss. 3601 et seq., and Title II of the Americans with Disabilities Act, 42 U.S.C. ss. 12131 et seq.

2. Establish a written application process for requesting a reasonable accommodation for the establishment of a certified recovery residence, which application must be submitted to the appropriate local government office.

3. Require the local government to date-stamp each application upon receipt. If additional information is required, the local government must notify the applicant in writing within the first 30 days after receipt of the application and allow the applicant at least 30 days to respond.

4. Require the local government to issue a final written determination on the application within 60 days after receipt of

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a completed application. The determination must:

a. Approve the request in whole or in part, with or without conditions; or

b. Deny the request, stating with specificity the objective, evidence-based reasons for denial and identifying any deficiencies or actions necessary for reconsideration.

5. Provide that if a final written determination is not issued within 60 days after receipt of a completed application, the request is deemed approved unless the parties agree in writing to a reasonable extension of time.

6. Require that the application include, at a minimum:

a. The name and contact information of the applicant or the applicant's authorized representative;

b. The property address and parcel identification number; and

c. A description of the accommodation requested and the specific regulation or policy from which relief is sought.

(c) The ordinance may establish additional requirements for the review or approval of reasonable accommodation requests for establishing a certified recovery residence, provided such requirements are consistent with federal law and do not conflict with this subsection.

(d) The ordinance may not require public hearings beyond the minimum required by law to grant the requested accommodation.

(e) The ordinance may include provisions for the revocation of a granted accommodation of a certified recovery residence for cause, including, but not limited to, a violation of the conditions of approval or the lapse, revocation, or failure to

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maintain certification or licensure required under this section, if not reinstated within 180 days.

(f) The ordinance and establishment of a reasonable accommodation process does not relieve the local government from its obligations under the Fair Housing Amendments Act of 1988, 42 U.S.C. ss. 3601 et seq., and Title II of the Americans with Disabilities Act, 42 U.S.C. ss. 12131 et seq. The regulation for which the applicant is seeking a reasonable accommodation must not facially discriminate against or otherwise disparately impact the applicant.

(16) The application of this section does not supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718; any cooperative document adopted pursuant to chapter 719; or any declaration or declaration of covenant adopted pursuant to chapter 720.

Section 2. Paragraph (c) of subsection (8) of section 397.4871, Florida Statutes, is amended to read:

397.4871 Recovery residence administrator certification.—

(8)

(c) Notwithstanding paragraph (b), a Level IV certified recovery residence operating as community housing as defined in s. 397.311(9), which residence is actively managed by a certified recovery residence administrator approved for 100 residents under this section and is wholly owned or controlled by a licensed service provider, may:

1. Actively manage up to 150 residents so long as the licensed service provider maintains a service provider personnel-to-patient ratio of 1 to 8 and maintains onsite supervision at the residence during times when residents are at

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the residence ~~24 hours a day, 7 days a week,~~ with a personnel-to-resident ratio of 1 to 10.

2. Actively manage up to 300 residents, so long as the licensed service provider maintains a service provider personnel-to-patient ratio of 1 to 8 and maintains onsite supervision at the residence during times when residents are at the residence with a personnel-to-resident ratio of 1 to 6.

A certified recovery residence administrator who has been removed by a certified recovery residence due to termination, resignation, or any other reason may not continue to actively manage more than 50 residents for another service provider or certified recovery residence without being approved by the credentialing entity.

Section 3. This act shall take effect July 1, 2025.

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By Senator Harrell

31-00455A-25 2025464__

A bill to be entitled

An act relating to certified recovery residences; amending s. 397.311, F.S.; revising the definition of the term "certified recovery residence"; amending s. 397.487, F.S.; requiring a credentialing entity to revoke a certified residence's certificate of compliance if the certified recovery residence willfully, knowingly, or intentionally provides false or misleading information to the credentialing entity; amending s. 397.4873, F.S.; revising applicability of provisions governing referrals to or from recovery residences; providing an effective date.

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

Section 1. Paragraph (d) of subsection (5) of section 397.311, Florida Statutes, is amended to read:

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

(5) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.

(d) A Level IV certified recovery residence is a residence offered, referred to, or provided by, a licensed service provider to its patients who ~~are required to~~ reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Such residences are <u>required to be</u> staffed 24 hours a day and combine outpatient licensable services with

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recovery residential living. Residents are required to follow a treatment plan and attend group and individual sessions, in addition to developing a recovery plan within the social model of living in a sober lifestyle. No clinical services are provided at the residence, and all licensable services are provided offsite.

Section 2. Paragraph (e) of subsection (8) of section 397.487, Florida Statutes, is amended to read:

397.487 Voluntary certification of recovery residences.—

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

(e) A credentialing entity must ~~shall~~ revoke a certified recovery residence's certificate of compliance if the certified recovery residence willfully, knowingly, or intentionally provides false or misleading information to the credentialing entity at any time.

Section 3. Paragraph (a) of subsection (2) of section 397.4873, Florida Statutes, is amended to read:

397.4873 Referrals to or from recovery residences; prohibitions; penalties.—

(2) Subsection (1) does not apply to:

~~(a) A licensed service provider under contract with a managing entity as defined in s. 394.9082.~~

Section 4. This act shall take effect July 1, 2025.

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Third District Court of Appeal

State of Florida

Opinion filed April 2, 2025.
Not final until disposition of timely filed motion for rehearing.

No. 3D23-0258
Lower Tribunal No. 18-30749

Robert C. Burley, etc.,
Appellant,

vs.

The Village South, Inc., etc.,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Carlos Guzman, Judge.

Leesfield Scolaro, P.A., and Thomas Scolaro and Carlos A. Fabano; Leesfield & Partners, P.A., and Justin Shapiro; Samson Appellate Law, and Daniel M. Samson, for appellant.

Lydecker, LLP, and Forrest L. Andrews, for appellee.

Before EMAS, SCALES and MILLER, JJ.

EMAS, J.

INTRODUCTION

Anthony Burley (the Decedent) was involuntarily committed to The Village South, Inc. (Village South), an addiction treatment facility. After less than a month, he was discharged for violating the facility's rules, and forty-eight days after discharge, he died from a drug overdose.

His father, Robert Burley, individually and as the personal representative of the Estate of Anthony Burley (together, Appellants), filed suit against Village South for wrongful death, alleging that the facility owed a legal duty to the Decedent—grounded in statute, regulation and Village South's own policies and procedures—with respect to *the manner* of the Decedent's discharge, and that the facility breached its duty when it failed to refer the Decedent to an appropriate inpatient treatment center and to arrange for post-discharge management of his medication to treat his opioid addiction. The Estate contends that Village South's breach of this duty proximately caused the Decedent's death.

Village South moved for summary judgment, which the court granted upon a finding that Village South owed no duty of care to the Decedent because he was "no longer under the custody and control of Village South at the time of his death." The Estate appeals the trial court's final summary

judgment in favor of Village South and, for the reasons that follow, we reverse.

FACTUAL AND PROCEDURAL BACKGROUND

The Decedent was thirty years old at the time of his death. He had a history of drug addiction, and had survived two prior drug overdoses. In August of 2016, after suffering his third overdose, a Marchman Act[1] proceeding was instituted, and the Decedent was involuntarily committed. The Decedent completed detoxification and was then transferred to the care of Village South on October 17, 2016.

The Decedent tested negative for controlled substances at the time of his admission, but tested positive for cocaine on October 26, having obtained the drugs from his roommate at Village South. Because the use of controlled substances on the premises violated the facility's rules, Village South discharged the Decedent to Chapman Hall, a homeless shelter. Despite the rule violation, the Decedent remained at Village South for thirteen more days—testing negative for controlled substances on November 6—before he

[1] The Marchman Act, also known as the Hal S. Marchman Alcohol and Other Drug Services Act of 1993, see section 397.301 et. seq., Florida Statutes (2016), provides a statutory procedure for an individual in need of substance abuse services (assessment and/or treatment) to receive emergency services and temporary placement for evaluation while treatment modalities are explored on either a voluntary or involuntary basis.

was formally discharged on November 8. At that time, Village South provided him with a two-week supply of Suboxone (a medication used to reduce symptoms of opioid addiction and withdrawal) and a list of doctors to contact for medication maintenance. The Decedent was at Village South for a total of twenty-three days—from October 17 to November 8, 2016.

On December 26, 2016 (forty-eight days after his discharge from Village South), the Decedent overdosed and died of acute combined drug toxicity.

The Estate filed a three-count complaint against Village South, alleging wrongful death (Count I), violation of section 415.111, Florida Statutes (protecting vulnerable adults), and breach of fiduciary duties. In the pertinent wrongful death claim, the Estate alleged Village South owed the Decedent a statutory duty under section 397.6751(3), Florida Statutes, and breached that duty by, primarily, failing to properly discharge the Decedent, e.g., provide him with continued substance abuse treatment (in-patient or out-patient) and monitor (post-discharge) his Suboxone prescription.[2] See §

[2] Count I of the complaint includes an extensive list of ways Village South purportedly breached the aforementioned duty. The various actions and/or inaction by Village South generally fall into two categories—the failure to monitor the Decedent so as to prevent him from taking drugs at Village South, and the failure to discharge the Decedent in a manner that would permit him to continue his substance abuse treatment. However, the Initial Brief focuses on the allegations surrounding the manner of discharge.

397.6751(3), Fla. Stat. (2016) ("When, in the judgment of the service provider, the medical conditions or behavioral problems of an involuntary individual become such that they cannot be safely managed by the service component, *the service provider must discharge the individual and attempt to assist him or her in securing more appropriate services in a setting more responsive to his or her needs*.") (emphasis added).

Village South moved for summary judgment, arguing primarily that it had no "legal duty to prevent the death of Anthony Burley" once he was discharged from the facility, and that the Estate failed to establish a causal link between Village South's actions or inaction and the Decedent's death forty-eight days after discharge. To support its position, Village South submitted substantial summary judgment evidence, including deposition testimony from a Village South therapist (Roxana Tefel) and a Department of Children and Families (DCF) employee (Yamile Diaz Conte). Both witnesses confirmed that, if an individual tests positive for drugs while at a rehabilitation facility, he must be discharged. They also confirmed Village South notified the Monroe County Marchman Court of the Decedent's discharge from the facility but was informed Monroe County no longer had jurisdiction over him since at that point he was located in Miami-Dade County.

The Estate responded that Village South owed a duty to the Decedent to provide an "adequate discharge and proper management of opioid addiction medication, in accordance with the prevailing standard of care." On this point, the Estate cited Village South's own policies and procedures, as well as numerous statutes and regulations.[3] The Estate relied on many of the same depositions as Village South and an affidavit from its expert (Amy Harrington).

The Estate's expert opined that Village South "negligently provided substance abuse care and treatment to [the Decedent] and utterly failed to provide him with an adequate discharge from its facility"; specifically, risk of opioid overdose is higher following an "abrupt termination from opioid replacement therapy through at least 32 weeks," and the Decedent died approximately four weeks after his Suboxone prescription would have run out; and Village South failed to provide the Decedent "a continuity of substance abuse treatment, ongoing management of his medication needs, access to physicians and the benefit of a substance abuse treatment support system to prevent relapse."

[3] The Estate cited several statutory provisions and regulations as the source of Village South's duty owed to the Decedent: sections 397.6751(1)(f), 397.419(1), 397.501(3)(a), and Florida Administrative Code 65D-30.004 and 65D-30.014.

As for DCF employee Conte, she testified that Village South was subject to a corrective action plan "as a response to what happened to [the Decedent]"—e.g., Village South "had clinical recommendations in the notes [] for this client to continue receiving treatment for substance abuse," yet the facility "discharged the client to a homeless shelter," and Village South further failed to "abide by [its] own policy" when it discharged the Decedent without "facilitating . . . an appointment with the doctor who could prescribe Suboxone after discharge."[4]

The trial court held a hearing on the motion, during which the existence or nonexistence of a duty was forcefully argued by both sides. The trial court ultimately granted Village South's motion, finding Village South owed no duty to the Decedent once he left the custody and control of Village South, nor did it have a duty to prevent the Decedent's death. In finding no duty, the trial court examined whether Village South's actions created a foreseeable zone of risk. It did not address the Estate's position that Village South's duty to the Decedent arose from its own policies and procedures, and Florida Statute and regulations.[5] This appeal followed.

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[4] Conte further explained: "Corrective action plan is something that we—issue to a provider in order for them to correct something that was found to be not in line with established rules."

[5] The trial court also granted summary judgment on counts II (violation of section 415.1111) and III (breach of fiduciary duty) on the basis that the

ANALYSIS

As it argued below, the Estate contends on appeal that it is not challenging the "**act** of discharge" but rather "the **manner** of discharge," alleging that, on this issue, Village South failed to follow statutory and regulatory requirements and its own policies and procedures in the manner in which it discharged the Decedent, thus breaching a duty which proximately caused the death of the Decedent from a drug overdose. The trial court, the Estate continues, failed to even consider whether the relevant statutes, regulations and Village South's own policies and procedures created a duty regarding the manner of the Decedent's discharge from Village South.

Upon our de novo review, we hold that Village South owed a legal duty to the Decedent, and that there remain disputed issues of material fact, precluding summary judgment. See Chirillo v. Granicz, 199 So. 3d 246, 248-49 (Fla. 2016) ("The determination of duty, as an element of negligence, is a question of law, McCain v. Florida Power Corp., 593 So. 2d 500, 502 (Fla.1992), and is therefore subject to de novo review, Est. of Rotell ex rel. Rotell v. Kuehnle, 38 So. 3d 783, 785 (Fla. 2d DCA 2010)."); see also Brownlee v. 22nd Ave. Apts., LLC, 389 So. 3d 695, 698 (Fla. 3d DCA 2024)

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relationship between the Decedent and Village South ended upon his discharge. On appeal, the Estate focuses on its wrongful death claim.

("The standard of review on orders granting final summary judgment is de novo.") (quotation omitted); Est. of Johnson ex rel. Johnson v. Badger Acquisition of Tampa LLC, 983 So. 2d 1175, 1180 (Fla. 2nd DCA 2008) ("While breach, causation, and damages are typically questions for the finder of fact, the determination of duty is a matter of law.").

"To establish a cause of action for negligence in a wrongful death action, a plaintiff must allege and prove (1) *the existence of a legal duty owed to the decedent*, (2) breach of that duty, (3) legal or proximate cause of death was that breach, and (4) consequential damages." Jenkins v. W.L. Roberts, Inc., 851 So. 2d 781, 783 (Fla. 1st DCA 2003) (emphasis added). The existence of a duty is a threshold question. Id.; see also Surloff v. Regions Bank, 179 So. 3d 472, 475 (Fla. 4th DCA 2015) ("A cause of action based in negligence requires the defendant to have had a duty to the plaintiff.") (quoting Clay Elec. Co-op., Inc. v. Johnson, 873 So. 2d 1182, 1185 (Fla. 2003)). Such a duty "may arise from four general sources," e.g., "(1) legislative enactments or administration regulations; (2) judicial interpretations of such enactments or regulations; (3) other judicial precedent; and (4) a duty arising from the general facts of the case." White v. Ring Power Corp., 261 So. 3d 689, 697 (Fla. 3d DCA 2018) (quoting Clay Elec. Co-op., 873 So. 2d at 1185) and citing Limones v. Sch. Dist. of Lee

Cnty., 161 So. 3d 384, 389 (Fla. 2015) ("Florida law recognizes the following four sources of duty: (1) statutes or regulations; (2) common law interpretations of those statutes or regulations; (3) other sources in the common law; and (4) the general facts of the case"); see also McCain, 593 So. 2d at 503 n.2 (noting: "The Restatement (Second) of Torts, for example, recognizes four sources of duty: (1) legislative enactments or administration regulations; (2) judicial interpretations of such enactments or regulations; (3) other judicial precedent; and (4) a duty arising from the general facts of the case. Restatement (Second) of Torts § 285 (1965).").

The first category (legislative enactments or administrative regulations) and fourth category (duty arising from the general facts of the case) are applicable here.

A Duty Arising From Legislative Enactments or Administrative Regulations

Regarding this first category by which a duty may be found to exist, the law is well-established: "[A] statute creates a duty of care upon one whose behavior is the subject of the statute to a person who is in the class designed to be protected by the statute, and [] such duty will support a finding of liability for negligence when the injury suffered by a person in the protected class is that which the statute was designed to prevent." Palmer v. Shearson Lehman Hutton, Inc., 622 So. 2d 1085, 1090 (Fla. 1st DCA 1993) (citing

deJesus v. Seaboard Coast Line R.R. Co., 281 So. 2d 198 (Fla.1973)); see also Abril v. Dep't of Corr., 884 So. 2d 206, 209 (Fla. 2d DCA 2004) ("When a statute creates a clear duty of care, the violation of that duty can 'generate[] a viable cause of action in tort.'") (quoting Gracey v. Eaker, 837 So. 2d 348, 353 (Fla. 2002)).

The Estate, in its complaint, alleges Village South owed the Decedent a statutory duty under section 397.6751(3), Florida Statutes. Entitled "Service provider responsibilities regarding ***involuntary admissions***," the statute requires that, where an individual's behavior requires discharge, "the service provider . . . attempt to assist him or her in securing ***more appropriate services in a setting more responsive to his or her needs***." (emphasis added). Likewise, subsection (f) of the same statute requires a service provider to "[t]ake all necessary measures to ensure that each individual in treatment is provided with a safe environment, and to ensure that each individual whose medical condition or behavioral problem becomes such that he or she cannot be safely managed by the service component is discharged ***and referred to a more appropriate setting for care***." (emphasis added); see also § 397.305(1), Fla. Stat. (2016) (expressing legislative intent and findings: "Substance abuse impairment is a disease which affects the whole family and the whole of society and requires a

system of care that includes, prevention, intervention, clinical treatment, and recovery support services that support and strengthen the family unit.") Read in pari materia, these provisions impose a legal duty upon Village South with respect to the alleged negligent conduct related to the Decedent's placement upon discharge. Compare with Palmer, 622 So. 2d 1085, 1089 (Fla. 1st DCA 1993) (finding statutes and administrative rules read in pari materia imposed legal duties supporting a cause of action and genuine issue of fact existed as to whether breach of that duty caused plaintiff's injuries).

Village South, as a "service provider" for substance abuse services, is "one whose behavior is the subject of the statute," and the Decedent as a person involuntarily admitted to a service provider for substance abuse treatment "is in the class designed to be protected" by section 397.6751(3). Palmer, 622 So. 2d at 1090. Further, the Estate presented testimony and other evidence suggesting Village South failed, upon the Decedent's discharge, to "attempt to assist him . . . in securing more appropriate services in a setting more responsive to his . . . needs."[6] Such evidence included

[6] Village South contends that, when it contacted the Monroe County Marchman Court, this was sufficient to satisfy the statute's requirement that it "attempt to assist" the Decedent "in securing more appropriate services." However, given the conflicting evidence presented at summary judgment, whether Village South breached this duty to the Decedent remains a disputed issue of fact to be determined by the finder of fact. Est. of Johnson ex rel. Johnson v. Badger Acquisition of Tampa LLC, 983 So. 2d 1175, 1180

testimony from Conte (a DCF employee) explaining Village South received a corrective action plan because it "needed to correct the fact [it] did not provide transfer to another substance abuse facility for this client." Specifically, the facility discharged the Decedent to a homeless shelter with no "link or transfer" to either an out-patient or residential substance abuse provider despite clinical recommendations from Village South's *own* clinical team for continued treatment.

A Duty Arising From the General Facts of the Case

Village South also owed the Decedent a legal duty under the fourth category, recognizing "a duty arising from the general facts of the case." White, 261 So. 3d at 697. "Under this category, 'the trial and appellate courts cannot find a lack of duty if a foreseeable zone of risk more likely than not was created by the defendant.'" Id. (quoting McCain, 593 So. 2d at 503).[7] Again, the Estate presented evidence to this effect: Conte's testimony

(Fla. 2nd DCA 2008) ("While breach, causation, and damages are typically questions for the finder of fact, the determination of duty is a matter of law.").

[7] We need not and therefore do not reach the question of whether Village South's policies and procedures alone create a legal duty. Johnson v. Wal-Mart Stores E., LP, 389 So. 3d 705, 709 (Fla. 1st DCA 2024) ("[E]ven if internal policies might sometimes be relevant (and therefore admissible) when a jury decides compliance with the proper standard of care in a negligence case, we fail to see how a single party's internal policies are themselves evidence that an alleged tortfeasor's conduct creates a reasonably foreseeable zone of risk.).

indicating Village South failed to abide by its own policy to "provide a linkage or appointment" with a "specific doctor" for management of the Decedent's Suboxone prescription; and the affidavit of the Estate's expert opining that, when initiating opiate-withdrawal medication, "the standard of care is to either taper the medication before discharge or to ensure that a patient has enough medication until he can attend a scheduled appointment with an out-patient provider." The Estate, in other words, presented evidence that Village South created a "foreseeable zone of risk" when it provided the Decedent with Suboxone with no follow-up medical appointment, particularly where he was referred to a homeless shelter rather than a rehabilitation center.

It is true—as Village South contends—that in Florida there is "no common law duty to protect a patient once he has left [a facility's] custody and control." Haslett v. Broward Health Imperial Point Med. Ctr., 197 So. 3d 124, 127 (Fla. 4th DCA 2016). However, the Estate does not challenge Village South's actions after the Decedent left the facility; instead, the Estate challenges Village South's actions in the manner in which it chose to discharge him—to a homeless shelter, as opposed to a rehabilitation or treatment center—with an insufficient amount of Suboxone and no follow-up medical appointment. The Estate's claim challenges Village South's

provision of care, even if it was the final act of care in the service provider/client relationship. And, again, discharge is part of the provision of care to an involuntarily admitted client as identified in section 397.6751(1)(f).[8]

Chirillo v. Granicz, 199 So. 3d 246, 251 (Fla. 2016) is instructive. In Chirillo, the decedent sought treatment from Dr. Chirillo for depression, and Dr. Chirillo prescribed her an antidepressant, Effexor. Three years into her treatment, the decedent called Dr. Chirillo's office and informed the medical assistant that she had stopped taking Effexor due to certain side effects. Dr. Chirillo (through his assistant) changed the decedent's prescription to Lexapro, and advised the decedent to pick up samples at the office. He did not schedule an appointment to assess her condition in person. The day after the decedent began her new prescription, she committed suicide.

[8] Even if Monroe County no longer considered the Decedent as subject to the Marchman Act (given his placement in Miami-Dade), he was indisputably involuntarily committed to Village South under the Marchman Act and thereafter discharged from Village South due to a "behavioral problem" such that he could not be "safely managed" by Village South. See § 397.6751(1)(f), Fla. Stat. (requiring the service provider to "[t]ake all necessary measures to ensure that each individual in treatment is provided with a safe environment, and to ensure that each individual whose medical condition or behavioral problem becomes such that he or she cannot be safely managed by the service component is discharged and referred to a more appropriate setting for care.").

The decedent's estate subsequently sued Dr. Chirillo for wrongful death asserting he "breached his duty of care in treating the decedent and that her suicide resulted from that breach." Dr. Chirillo moved for summary judgment arguing he owed no duty to prevent the decedent's suicide, and the trial court granted the motion finding, as a matter of law, Dr. Chirillo did not owe a duty to prevent "the unforeseeable suicide of an outpatient." Granicz v. Chirillo, 147 So. 3d 544, 547 (Fla. 2d DCA 2014), approved, 199 So. 3d 246 (Fla. 2016). The Second District reversed, explaining the duty asserted was not to prevent the decedent's suicide but "to exercise reasonable care in [] treatment of the decedent," and summary judgment was improper where the estate presented "expert testimony setting forth the applicable standard of care, how it was breached, and how the breach was the proximate cause of the decedent's suicide." This duty, it continued, is based in part on section 766.102(1), Florida Statutes, providing "the prevailing standard of care" for a physician in Florida. § 766.102(1), Fla. Stat. ("The prevailing professional standard of care for a given health care provider shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers."). And the estate presented expert testimony that, upon a patient complaining of symptoms

suggesting worsening depression, the standard of care requires "physicians to personally assess the patient's condition to determine if she is having thoughts of suicide and to intervene if necessary." Granicz, 147 So. 3d at 548. The Second District then concluded such evidence was "sufficient to establish that Dr. Chirillo owed a legal duty to [the decedent] that precluded summary judgment." Id.

The Florida Supreme Court agreed with the Second District, opining on the distinction between the non-existent duty to prevent a suicide in an outpatient scenario and the separate, statutory duty to provide a patient with appropriate care:

> Petitioners are correct that Florida law has not extended the duty to prevent suicide to an outpatient scenario, but such fact only highlights why Petitioners' attempt to classify the duty in the instant case as a duty to prevent suicide is incorrect and inappropriate. The decedent in this case was an outpatient of Dr. Chirillo's. Therefore, under Florida law, there was no duty to prevent her suicide. Paddock v. Chacko, 522 So. 2d 410, 415–17 (Fla. 5th DCA 1988). However, ***the nonexistence of one specific type of duty does not mean that Dr. Chirillo owed the decedent no duty at all***.[] As we plainly stated in McCain, there are several sources of duty. ***Although the inpatient duty to prevent suicide does not apply here, there still existed a statutory duty under section 766.102 to treat the decedent in accordance with the standard of care***. We find that the Second District properly evaluated the instant case based on the statutory duty owed to the decedent and also properly classified the foreseeability of the decedent's suicide as a matter of fact for the jury to decide in determining proximate cause

Chirillo, 199 So. 3d at 251-52 (emphasis added).

Likewise, the absence of a duty to treat the Decedent following discharge did not negate Village South's duty under section 397.6751(3) and (1)(f) to "assist him in securing more appropriate services in a setting more responsive to his . . . needs," and the Estate presented evidence that Village South, at a minimum, should have referred the Decedent to Village South's outpatient program. The Estate also presented sufficient evidence to support a determination that Village South owed a duty to the Decedent—under the general facts of the case—to properly manage the Decedent's Suboxone prescription.

Whether Village South breached these duties, and whether such breach proximately caused the Decedent's death, are issues for the finder of fact, and we express no opinion on those issues.

CONCLUSION

We hold that Village South owed a legal duty to the Decedent, arising from legislative enactments or administrative regulations, as well as arising from the general facts of the case. We further hold that there remain disputed issues of material fact, precluding summary judgment. We therefore reverse the final summary judgment and remand this cause for further proceedings.