

Governor's Budget Recommendation Conforming Bill
Adult Day Training Regulation

1 A bill to be entitled

2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 393.063, F.S.; amending s.
4 393.0655, F.S.; amending s. 393.067, F.S.; amending s.
5 393.0673, F.S.; amending s. 393.0678; amending s. 393.135,
6 F.S.; amending s. 393.18, F.S.; amending s. 394.875, F.S.;
7 providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Subsection (1) of section 393.063, Florida
12 Statutes, is amended to read, subsection (10) is deleted,
13 subsections (11) through (46) are renumbered as subsections (10)
14 through (45), and a new subsection (46) is added to read:

15 393.063 Definitions.—For the purposes of this chapter, the
16 term:

17 (1) "Adult day training" means ~~training~~ a program of
18 services that take place in a nonresidential setting, separate
19 from the home or facility in which the client resides, and are
20 intended to support the participation of clients in ~~daily,~~
21 meaningful, and valued routines of the community. ~~Such training~~
22 ~~may be provided in work-like settings that do not meet the~~
23 ~~definition of supported employment.~~ These services include the
24 acquisition, retention, or improvement of self-help,
25 socialization, and adaptive skills.

26 ~~(10) "Comprehensive transitional education program" means~~
27 ~~the program established in s. 393.18.~~

28 (46) "Licensee" means an individual, corporation,
29 partnership, firm, association, governmental entity, or other

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30 entity that is issued a permit, registration, certificate, or
31 license by the agency. The licensee is legally responsible for
32 all aspects of the provider operation.

33 Section 2. Subsection (1) of section 393.0655, Florida
34 Statutes, is amended to read:

35 393.0655 Screening of direct service providers.-

36 (1) MINIMUM STANDARDS.-The agency shall require level 2
37 employment screening pursuant to chapter 435 for direct service
38 providers who are unrelated to their clients, including support
39 coordinators, and managers and supervisors of residential
40 facilities and adult day training programs ~~or comprehensive~~
41 ~~transitional education programs~~ licensed under this chapter and
42 any other person, including volunteers, who provide care or
43 services, who have access to a client's living areas, or who
44 have access to a client's funds or personal property. Background
45 screening shall include employment history checks as provided in
46 s. 435.03(1) and local criminal records checks through local law
47 enforcement agencies.

48 (a) A volunteer who assists on an intermittent basis for
49 less than 10 hours per month does not have to be screened if a
50 person who meets the screening requirement of this section is
51 always present and has the volunteer within his or her line of
52 sight.

53 (b) Licensed physicians, nurses, or other professionals
54 licensed and regulated by the Department of Health are not
55 subject to background screening pursuant to this section if they
56 are providing a service that is within their scope of licensed
57 practice.

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58 (c) A person selected by the family or the individual with
59 developmental disabilities and paid by the family or the
60 individual to provide supports or services is not required to
61 have a background screening under this section.

62 (d) Persons 12 years of age or older, including family
63 members, residing with a direct services provider who provides
64 services to clients in his or her own place of residence are
65 subject to background screening; however, such persons who are
66 12 to 18 years of age shall be screened for delinquency records
67 only.

68 Section 3. Section 393.067, Florida Statutes, is amended to
69 read:

70 393.067 Facility Licensure.-

71 (1) The agency shall provide through its licensing
72 authority and by rule license application procedures, provider
73 qualifications, facility and client care standards, requirements
74 for client records, requirements for staff qualifications and
75 training, and requirements for monitoring foster care
76 facilities, group home facilities, residential habilitation
77 center facilities, and adult day training centers and
78 ~~comprehensive transitional education~~ programs that serve agency
79 clients.

80 (2) The agency shall conduct annual inspections and reviews
81 of facilities and adult day training programs licensed under
82 this section.

83 (3) An application for a license under this section must be
84 made to the agency on a form furnished by it and shall be
85 accompanied by the appropriate license fee.

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86 (4) The application shall be under oath and shall contain
87 the following:

88 (a) The name and address of the applicant, if an applicant
89 is an individual; if the applicant is a firm, partnership, or
90 association, the name and address of each member thereof; if the
91 applicant is a corporation, its name and address and the name
92 and address of each director and each officer thereof; and the
93 name by which the facility or adult day training program is to
94 be known.

95 (b) The location of the facility or adult day training
96 program for which a license is sought.

97 (c) The name of the person or persons under whose
98 management or supervision the facility or adult day training
99 program will be conducted.

100 (d) The number and type of residents or clients for which
101 maintenance, care, education, or treatment is to be provided by
102 the facility or adult day training program.

103 ~~(e) The number and location of the component centers or~~
104 ~~units which will compose the comprehensive transitional~~
105 ~~education program.~~

106 ~~(f)~~ A description of the types of services and treatment to
107 be provided by the facility or adult day training program.

108 ~~(f)~~ ~~(g)~~ Information relating to the number, experience, and
109 training of the employees of the facility or adult day training
110 program.

111 ~~(g)~~ ~~(h)~~ Certification that the staff of the facility or
112 adult day training program will receive training to detect,
113 report, and prevent sexual abuse, abuse, neglect, exploitation,

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114 and abandonment, as defined in ss. 39.01 and 415.102, of
115 residents and clients.

116 ~~(h)(i) Information~~ Such other information as the agency
117 determines is necessary to carry out the provisions of this
118 chapter.

119 (5) As a prerequisite for issuance of an initial or renewal
120 license, the applicant, and any manager, supervisor, and staff
121 member of the direct service provider of a facility or adult day
122 training program licensed under this section, must have
123 submitted to background screening as required under s. 393.0655.
124 A license may not be issued or renewed if the applicant or any
125 manager, supervisor, or staff member of the direct service
126 provider has a disqualifying offense revealed by failed
127 background screenings as required under s. 393.0655. The agency
128 shall determine by rule the frequency of background screening.
129 The applicant shall submit with each initial or renewal
130 application a signed affidavit under penalty of perjury stating
131 that the applicant and any manager, supervisor, or staff member
132 of the direct service provider is in compliance with all
133 requirements for background screening.

134 (6) The facility applicant shall furnish satisfactory proof
135 of financial ability to operate and conduct the facility ~~or~~
136 ~~program~~ in accordance with the requirements of this chapter and
137 adopted rules.

138 (7) The agency shall adopt rules establishing minimum
139 standards for facilities and adult day training programs
140 licensed under this section, including rules requiring
141 facilities and adult day training programs to train staff to
142 detect, report, and prevent sexual abuse, abuse, neglect,

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143 exploitation, and abandonment, as defined in ss. 39.01 and
144 415.102, of residents and clients, minimum standards of quality
145 and adequacy of client care, incident reporting requirements,
146 and uniform fire_safety standards established by the State Fire
147 Marshal which are appropriate to the size of the facility or ~~of~~
148 ~~the component centers or units of the~~ adult day training
149 program.

150 (8) The agency, after consultation with the Division of
151 Emergency Management, shall adopt rules for foster care
152 facilities, group home facilities, and residential habilitation
153 centers facilities, and adult day training programs which
154 establish minimum standards for the preparation and annual
155 update of a comprehensive emergency management plan. At a
156 minimum, the rules must provide for plan components that address
157 emergency evacuation transportation; adequate sheltering
158 arrangements; post_disaster activities, including emergency
159 power, food, and water; post_disaster transportation; supplies;
160 staffing; emergency equipment; individual identification of
161 residents and transfer of records; and responding to family
162 inquiries.

163 (9) Comprehensive emergency management plans of foster care
164 facilities, group home facilities, residential habilitation
165 center facilities, and adult day training programs are subject
166 to review and approval by the Agency as part of the annual
167 licensing process.

168 (10) Licensees shall ensure that the local emergency
169 management agency is given the opportunity to examine the
170 agency-approved plans. The comprehensive emergency management
171 plan for all facilities and adult day training programs

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172 ~~comprehensive transitional education programs and for homes~~
173 serving individuals who have a complex medical condition
174 ~~conditions~~ is subject to review and approval by the local
175 emergency management agency.

176 (a) For the purpose of this section, "complex medical
177 condition" means a chronic debilitating disease(s) or
178 condition(s) of one or more physiological or organ systems that
179 generally make the person dependent upon 24-hour-per-day
180 medical, nursing, or health supervision or intervention.

181 (b) During its review, the local emergency management
182 agency shall ensure that the agency and the Division of
183 Emergency Management, at a minimum, are given the opportunity to
184 review the plan. Also, appropriate volunteer organizations must
185 be given the opportunity to review the plan.

186 (c) The local emergency management agency shall complete a
187 its review of each comprehensive emergency management plan for
188 individuals with a complex medical condition within 60 days of
189 receipt of such plan, and either approve the plan or advise the
190 facility of necessary revisions.

191 ~~(11)(9)~~ The agency may conduct unannounced inspections to
192 determine compliance by foster care facilities, group home
193 facilities, residential habilitation center facilities ~~centers,~~
194 and adult day training ~~and comprehensive transitional education~~
195 programs with the applicable provisions of this chapter and the
196 rules adopted pursuant hereto, including the rules adopted for
197 training staff of a facility or an adult day training program
198 to detect, report, and prevent sexual abuse, abuse, neglect,
199 exploitation, and abandonment, as defined in ss. 39.01 and
200 415.102, of residents and clients. The facility or adult day

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201 training program shall make copies of inspection reports
202 available to the public upon request.

203 (12)~~(10)~~ Each facility ~~or program~~ licensed under this
204 section shall forward annually to the agency a true and accurate
205 sworn statement of its costs of providing care to clients funded
206 by the agency.

207 (13)~~(11)~~ The agency may audit the records of any facility
208 ~~or program~~ that it has reason to believe may not be in full
209 compliance with the provisions of this section; provided that,
210 any financial audit of such facility or program shall be limited
211 to the records of clients funded by the agency.

212 (14)~~(12)~~ The agency shall establish, for the purpose of
213 control of licensure costs, a uniform management information
214 system and a uniform reporting system with uniform definitions
215 and reporting categories.

216 (15)~~(13)~~ Facilities and adult day training programs
217 licensed pursuant to this section shall adhere to all rights
218 specified in s. 393.13, ~~including those enumerated in s.~~
219 ~~393.13(4).~~

220 (16)~~(14)~~ The agency shall not authorize funds or services
221 to an unlicensed facility or adult day training program that
222 requires a license under this section. ~~An unlicensed facility or~~
223 ~~program may not receive state funds.~~ A license for the operation
224 of a facility or adult day training program shall not be renewed
225 if the licensee has any outstanding fines assessed pursuant to
226 this chapter wherein final adjudication of such fines has been
227 entered.

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228 ~~(17)-(15)~~ The agency is not required to contract with
229 facilities or adult day training programs licensed pursuant to
230 this chapter.

231 Section 4. Section 393.0673, Florida Statutes, is amended
232 to read:

233 393.0673 Denial, suspension, or revocation of license;
234 moratorium on admissions; administrative fines; procedures.—

235 (1) The following shall constitute grounds for which the
236 agency may take disciplinary action, including revoking or
237 suspending a license and/or imposing an administrative fine,
238 not to exceed \$1,000 per violation per day, if:

239 (a) The licensee has:

240 1. Falsely represented or omitted a material fact in its
241 license application submitted under s. 393.067;

242 2. Had prior action taken against it under the Medicaid or
243 Medicare program; or

244 3. Failed to comply with the applicable requirements of
245 this chapter or rules applicable to the licensee; or

246 (b) The Department of Children and Families has verified
247 that the licensee is responsible for the abuse, neglect, or
248 abandonment of a child or the abuse, neglect, or exploitation of
249 a vulnerable adult.

250 (2) In considering disciplinary action under chapter 393
251 for verified findings of abuse, neglect, abandonment, or
252 exploitation of a child or vulnerable adult, the licensee is
253 responsible not only for administration of the facilities in
254 compliance with the standards set out by statute and
255 administrative rule, but is ultimately responsible for the care
256 and supervision of the clients in the facility or program.

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257 (a) Licensees cannot delegate the ultimate responsibility
258 for the safety of the clients in its care to others.

259 (b) A licensee is subject to disciplinary action for an
260 employee's lapse in care or supervision at the facility or
261 program in which a verified finding of abuse, neglect,
262 abandonment, or exploitation occurred.

263 (c) The agency's ability to impose disciplinary action is
264 not negated by a licensee's remedial action.

265 (3)-(2) The agency may deny an application for licensure
266 submitted under s. 393.067 if:

267 (a) The applicant has:

- 268 1. Falsely represented or omitted a material fact in its
269 license application submitted under s. 393.067;
270 2. Had prior action taken against it under the Medicaid or
271 Medicare program;
272 3. Failed to comply with the applicable requirements of
273 this chapter or rules applicable to the applicant; or
274 4. Previously had a license to operate a residential
275 facility or adult day training program revoked by the agency,
276 the Department of Children and Families, or the Agency for
277 Health Care Administration; or

278 (b) The Department of Children and Families has verified
279 that the applicant is responsible for the abuse, neglect, or
280 abandonment of a child or the abuse, neglect, or exploitation of
281 a vulnerable adult; or-

282 (c) The agency has determined there is clear and convincing
283 evidence that the applicant is unqualified for a license because
284 of a lack of good moral character. "Good moral character" means

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285 a personal history of honesty, fairness, and respect for the
286 rights of others and for the laws of this state and nation.

287 ~~(4)~~~~(3)~~ All hearings shall be held within the county in
288 which the licensee or applicant operates or applies for a
289 license to operate a facility or adult day training program as
290 defined herein.

291 ~~(5)~~~~(4)~~ The agency, as a part of any final order issued by
292 it under this chapter, may impose such fine as it deems proper,
293 except that such fine may not exceed \$1,000 for each violation.
294 Each day a violation of this chapter occurs constitutes a
295 separate violation and is subject to a separate fine, but in no
296 event may the aggregate amount of any fine exceed \$10,000. Fines
297 paid by any facility licensee under the provisions of this
298 subsection shall be deposited in the Health Care Trust Fund and
299 expended as provided in s. 400.063.

300 ~~(6)~~~~(5)~~ The agency may issue an order immediately suspending
301 or revoking a license when it determines that any condition of
302 ~~in~~ the facility or adult day training program presents a danger
303 to the health, safety, or welfare of the residents or program
304 participants in the facility.

305 ~~(7)~~~~(6)~~ The agency may impose an immediate moratorium on
306 admissions or service authorizations to a facility or adult day
307 training program to any facility when the agency determines that
308 any condition of ~~in~~ the facility or adult day training program
309 presents a threat to the health, safety, or welfare of the
310 residents or program participants.

311 ~~(8)~~~~(7)~~ The agency shall establish by rule criteria for
312 evaluating the severity of violations and for determining the
313 amount of fines imposed.

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314 Section 5. Subsection (1) of section 393.0678, Florida
315 Statutes, is amended to read:

316 393.0678 Receivership proceedings.—

317 (1) The agency may petition a court of competent
318 jurisdiction for the appointment of a receiver for a
319 ~~comprehensive transitional education program,~~ a residential
320 habilitation center, or a group home facility owned and operated
321 by a corporation or partnership when any of the following
322 conditions exist:

323 (a) Any person is operating a facility without a license
324 and refuses to make application for a license as required by s.
325 393.067.

326 (b) The licensee is closing the facility or has informed
327 the department that it intends to close the facility; and
328 adequate arrangements have not been made for relocation of the
329 residents within 7 days, exclusive of weekends and holidays, of
330 the closing of the facility.

331 (c) The agency determines that conditions exist in the
332 facility which present an imminent danger to the health, safety,
333 or welfare of the residents of the facility or which present a
334 substantial probability that death or serious physical harm
335 would result therefrom. Whenever possible, the agency shall
336 facilitate the continued operation of the program.

337 (d) The licensee cannot meet its financial obligations to
338 provide food, shelter, care, and utilities. Evidence such as the
339 issuance of bad checks or the accumulation of delinquent bills
340 for such items as personnel salaries, food, drugs, or utilities
341 constitutes prima facie evidence that the ownership of the
342 facility lacks the financial ability to operate the home in

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343 accordance with the requirements of this chapter and all rules
344 promulgated thereunder.

345 Section 6. Subsection (2) of section 393.135, Florida
346 Statutes, is amended to read:

347 393.135 Sexual misconduct prohibited; reporting required;
348 penalties.-

349 (2) A covered person who engages in sexual misconduct with
350 an individual with a developmental disability who:

351 (a) Resides in a residential facility, ~~including any~~
352 ~~comprehensive transitional education program,~~ developmental
353 disabilities center, foster care facility, group home facility,
354 intermediate care facility for the developmentally disabled, or
355 residential habilitation center; or

356 (b) Is eligible to receive services from the agency under
357 this chapter, commits a felony of the second degree, punishable
358 as provided in s. 775.082, s. 775.083, or s. 775.084. A covered
359 person may be found guilty of violating this subsection without
360 having committed the crime of sexual battery.

361 Section 7. Section 393.18, Florida Statutes, is repealed.

362 Section 8. 394.875, Florida Statutes, is amended to read:

363 394.875 Crisis stabilization units, residential treatment
364 facilities, and residential treatment centers for children and
365 adolescents; authorized services; license required.-

366 (3) The following are exempt from licensure as required in
367 ss. 394.455-394.903:

368 ~~(c) Comprehensive transitional education programs licensed~~
369 ~~under s. 393.067.~~

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370 Section 9. This act shall take effect July 1, 2023.
371 However, licensure requirements for adult day training programs
372 shall take effect on October 1, 2024.