A bill to be entitled

An act relating to mental health and substance abuse; amending ss. 39.001, F.S.; expressing legislative intent regarding mental illness related to the child welfare system; amending s. 39.507, F.S.; addressing consideration of mental health issues and involvement in mental health court programs in adjudicatory hearings and orders of adjudication; amending 39.521, F.S.; addressing consideration of mental health issues and involvement in mental health court programs in disposition hearings; amending s. 394.455, F.S.; revising the definition of "mental illness" to exclude dementia and traumatic brain injury; amending s. 394.4598, F.S.; allowing patients' family members or other interested parties to petition for the appointment of a guardian advocate; amending s. 394.492, F.S.; amending the definitions of "adolescent", "child or adolescent at risk of emotional disturbance", and "child or adolescent who has a serious emotional disturbance or mental illness"; amending s. 394.656, F.S.; revising the duties of the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee; providing additional members of the committee; providing duties of the committee; providing additional qualifications for committee members;

authorizing a designated not-for-profit community provider to apply for certain grants; removing provisions relating to applications for certain planning grants; creating s. 394.761, F.S.; requiring the Agency for Health Care Administration and the Department of Children and Families to develop a plan to obtain federal approval for increasing the availability of federal Medicaid funding for behavioral health care; requiring the agency and the department to submit the written plan, which must include certain information, to the Legislature by a specified date; amending s. 394.9082, F.S.; defining the term "managed behavioral health organization"; redefining the term "managing entity" to include managed behavioral health organizations; requiring the department to contract with community-based managing entities for the development of specified objectives; providing requirements for the contracting process; removing duties of the department, the secretary of the department, and managing entities; removing a provision regarding the requirement of funding the managing entity's contract through departmental funds; removing legislative intent; requiring that the department's contract with each managing entity be performance based; revising goals; deleting obsolete language regarding the transition to the managing

entity system; requiring that care coordination be provided to populations in priority order; specifying the priority order of populations; specifying the requirements for care coordination; requiring the managing entity to work with the civil court system to develop procedures regarding involuntary outpatient placement subject to the availability of funding for services; requiring the department to use applicable performance measures based on nationally recognized standards to the extent possible; including standards related at a minimum to the improvement in the overall behavioral health of a community, improvement in person-centered outcome measures for populations provided care coordination, and reduction in readmissions to acute levels of care, jails, prisons, or forensic facilities; providing requirements for the governing board or advisory board of a managing entity; revising the network management and administrative functions of the managing entities; removing departmental responsibilities; specifying that methods of payment to managing entities must include requirements for data verification and consequences for failure to achieve performance standards; requiring the Department of Children and Families to develop standards and protocols for the collection, storage, transmittal, and analysis of

utilization data from public receiving facilities; defining the term "public receiving facility"; requiring the department to require compliance by managing entities by a specified date; requiring a managing entity to require public receiving facilities in its provider network to submit certain data within specified timeframes; requiring managing entities to reconcile data to ensure accuracy; requiring managing entities to submit certain data to the department within specified timeframes; requiring the department to create a statewide database; requiring the department to adopt rules; requiring the department to submit an annual report to the Governor and the Legislature; removing a reporting requirement; authorizing, rather than requiring, the department to adopt rules; providing an appropriation; requiring a study of the safety-net mental health and substance abuse system; providing topics; repealing s. 394.4674, F.S., relating to a plan and report; repealing s. 394.4985, F.S., relating to districtwide information and referral network and implementation; repealing s. 394.745, F.S., relating to an annual report and compliance of providers under contract with department; repealing 394.9084, F.S., relating to the Florida Self-Directed Care program; repealing s. 397.331, F.S., relating to definitions; repealing s.

397.333, F.S., relating to the Statewide Drug Policy Advisory Council; creating s. 397.402, F.S.; requiring that the department modify certain licensure rules and procedures by a certain date; repealing s. 397.801, F.S., relating to substance abuse impairment coordination; repealing s. 397.811, F.S., relating to juvenile substance abuse impairment coordination; repealing s. 397.821, F.S., relating to juvenile substance abuse impairment prevention and early intervention councils; repealing s. 397.901, F.S., relating to prototype juvenile addictions receiving facilities; repealing s. 397.93, F.S., relating to children's substance abuse services and target populations; repealing s. 397.94, F.S., relating to children's substance abuse services and the information and referral network; repealing s. 397.951, F.S., relating to treatment and sanctions; repealing s. 397.97, F.S., relating to children's substance abuse services and demonstration models; amending s. 765.110, F.S.; requiring health care facilities to include information about advance directives providing for mental health treatment; requiring the Department of Children and Families to develop and publish a mental health advance directive form on its website; providing an effective date.

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

Section 1. Contingent on the passage of PCB JDC 15-01 or similar legislation enacting s. 394.47892, F.S., authorizing the creation of treatment-based mental health court programs, subsection (6) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat mental illnesses and substance abuse disorders in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state related to mental illness and substance abuse treatment services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of mental illnesses and substance abuse disorders on families involved in protective supervision or foster care and reduce the occurrences of mental illnesses and substance abuse disorders, including alcohol abuse or related disorders, for families who are at risk of being involved in protective supervision or foster care.

3. To expedite permanency for children and reunify healthy, intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of mental illnesses and substance abuse disorders on health indicates the need for health care services to include treatment for mental health and substance abuse disorders ~~services~~ to children and parents where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related mental illness and substance abuse problems.

(d) It is the intent of the Legislature to encourage the use of the treatment-based mental health court program model established by s. 394.47892 and drug court program model established by s. 397.334 and authorize courts to assess children and persons who have custody or are requesting custody of children where good cause is shown to identify and address mental illnesses and substance abuse disorders ~~problems~~ as the court deems appropriate at every stage of the dependency process. Participation in treatment, including a treatment-based mental health court program or a treatment-based drug court program, may be required by the court following adjudication. Participation in assessment and treatment before ~~prior to~~

adjudication is ~~shall be~~ voluntary, except as provided in s. 39.407(16).

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with mental health service providers and community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used as resources permit.

(f) Participation in a treatment-based mental health court program or a ~~the~~ treatment-based drug court program does not divest any public or private agency of its responsibility for a child or adult, but is intended to enable these agencies to better meet their needs through shared responsibility and resources.

Section 2. Contingent on the passage of PCB JDC 15-01 or similar legislation enacting s. 394.47892, F.S., authorizing the creation of treatment-based mental health court programs, subsection (10) of section 39.507, Florida Statutes, is amended to read:

39.507 Adjudicatory hearings; orders of adjudication.—

(10) After an adjudication of dependency, or a finding of dependency where adjudication is withheld, the court may order a person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court

may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a treatment-based mental health court program established under s. 394.47892 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including the treatment-based mental health court program or treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subsection may be made only upon good cause shown. This subsection does not authorize placement of a child with a person seeking custody, other than the parent or legal custodian, who requires mental health or substance abuse disorder treatment.

Section 3. Contingent on the passage of PCB JDC 15-01 or similar legislation enacting s. 394.47892, F.S., authorizing the creation of treatment-based mental health court programs, paragraph (b) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court,

if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(b) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal custodian and the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a treatment-based mental health court program established under s. 394.47892 or treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including the treatment-based mental health court program or treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has

custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order

terminating supervision by the department shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, no further judicial reviews are required, so long as permanency has been established for the child.

Section 4. Subsection (18) of section 394.455, Florida Statutes, is amended to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(18) "Mental illness" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. For the purposes of this part, the term does not include a developmental disability as defined in chapter 393, dementia, traumatic brain injuries, intoxication, or conditions manifested only by antisocial behavior or substance abuse impairment.

Section 5. Subsection (1) of section 394.4598, Florida Statutes, is amended to read:

394.4598 Guardian advocate.—

(1) The administrator, a family member of the patient, or an interested party may petition the court for the appointment of a guardian advocate based upon the opinion of a psychiatrist

that the patient is incompetent to consent to treatment. If the court finds that a patient is incompetent to consent to treatment and has not been adjudicated incapacitated and a guardian with the authority to consent to mental health treatment appointed, it shall appoint a guardian advocate. The patient has the right to have an attorney represent him or her at the hearing. If the person is indigent, the court shall appoint the office of the public defender to represent him or her at the hearing. The patient has the right to testify, cross-examine witnesses, and present witnesses. The proceeding shall be recorded either electronically or stenographically, and testimony shall be provided under oath. One of the professionals authorized to give an opinion in support of a petition for involuntary placement, as described in s. 394.4655 or s. 394.467, must testify. A guardian advocate must meet the qualifications of a guardian contained in part IV of chapter 744, except that a professional referred to in this part, an employee of the facility providing direct services to the patient under this part, a departmental employee, a facility administrator, or member of the Florida local advocacy council shall not be appointed. A person who is appointed as a guardian advocate must agree to the appointment.

Section 6. Subsections (1), (4), and (6) of section 394.492, Florida Statutes, are amended to read:

394.492 Definitions.—As used in ss. 394.490-394.497, the term:

(1) "Adolescent" means a person who is at least 13 years of age but under 21 ~~18~~ years of age.

(4) "Child or adolescent at risk of emotional disturbance" means a person under 21 ~~18~~ years of age who has an increased likelihood of becoming emotionally disturbed because of risk factors that include, but are not limited to:

(a) Being homeless.

(b) Having a family history of mental illness.

(c) Being physically or sexually abused or neglected.

(d) Abusing alcohol or other substances.

(e) Being infected with human immunodeficiency virus (HIV).

(f) Having a chronic and serious physical illness.

(g) Having been exposed to domestic violence.

(h) Having multiple out-of-home placements.

(6) "Child or adolescent who has a serious emotional disturbance or mental illness" means a person under 21 ~~18~~ years of age who:

(a) Is diagnosed as having a mental, emotional, or behavioral disorder that meets one of the diagnostic categories specified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association; and

(b) Exhibits behaviors that substantially interfere with or limit his or her role or ability to function in the family, school, or community, which behaviors are not considered to be a

temporary response to a stressful situation.

The term includes a child or adolescent who meets the criteria for involuntary placement under s. 394.467(1).

Section 7. Section 394.656, Florida Statutes, is amended to read:

394.656 Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program.—

(1) There is created within the Department of Children and Families the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program. The purpose of the program is to provide funding to counties with which they can plan, implement, or expand initiatives that increase public safety, avert increased spending on criminal justice, and improve the accessibility and effectiveness of treatment services for adults and juveniles who have a mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders and who are in, or at risk of entering, the criminal or juvenile justice systems.

(2) The department shall establish a Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Policy ~~Review~~ Committee. The committee shall include:

(a) One representative of the Department of Children and Families;

(b) One representative of the Department of Corrections;

(c) One representative of the Department of Juvenile

Justice;

(d) One representative of the Department of Elderly Affairs; ~~and~~

(e) One representative of the Office of the State Courts Administrator;

(f) One representative of the Department of Veterans' Affairs;

(g) One representative of the Florida Sheriffs Association;

(h) One representative of the Florida Police Chiefs Association;

(i) One representative of the Florida Association of Counties;

(j) One representative of the Florida Alcohol and Drug Abuse Association; and

(k) One representative of the Florida Council for Community Mental Health.

(3) The committee shall serve as the advisory body to review policy and funding issues that help reduce the impact of persons with mental illnesses and substance use disorders on communities, criminal justice agencies, and the court system. The committee shall advise the department in selecting priorities for grants and investing awarded grant moneys.

(4) The department shall create a grant review and selection committee that has experience in substance use and mental health disorders, community corrections, and law

enforcement. To the extent possible, the ~~members of the~~ committee shall have expertise in ~~grant writing,~~ grant reviewing~~,~~ and grant application scoring.

(5)~~(3)~~(a) A county or not-for-profit community provider designated by the county planning council or committee, as described in s. 394.657, may apply for a 1-year planning grant or a 3-year implementation or expansion grant. The purpose of the grants is to demonstrate that investment in treatment efforts related to mental illness, substance abuse disorders, or co-occurring mental health and substance abuse disorders results in a reduced demand on the resources of the judicial, corrections, juvenile detention, and health and social services systems.

(b) To be eligible to receive a 1-year planning grant or a 3-year implementation or expansion grant~~,~~:

1. A county ~~applicant~~ must have a ~~county~~ planning council or committee that is in compliance with the membership requirements set forth in this section.

2. A not-for-profit community provider must be designated by the county planning council or committee and have written authorization to submit an application. A not-for-profit community provider must have written authorization for each application it submits.

(c) The department may award a 3 year implementation or expansion grant to an applicant who has not received a 1 year planning grant.

(d) The department may require an applicant to conduct sequential intercept mapping for a project. "Sequential intercept mapping" means a process for reviewing a local community's mental health, substance abuse, criminal justice, and related systems and identifying points of interceptions where interventions may be made to prevent an individual with a substance use disorder or mental illness from penetrating further into the criminal justice system.

(6) ~~(4)~~ The grant review committee shall select the recipients and notify the department ~~of Children and Families~~ in writing of the names of the applicants who have been selected by the committee to receive a grant. Contingent upon the availability of funds and upon notification by the review committee of those applicants approved to receive planning, implementation, or expansion grants, the department ~~of Children and Families~~ may transfer funds appropriated for the grant program to a selected recipient ~~any county awarded a grant~~.

Section 8. Section 394.761, Florida Statutes, is created to read:

394.761 Revenue Maximization.--

The agency and the department shall develop a plan to obtain federal approval for increasing the availability of federal Medicaid funding for behavioral health care. The agency and the department shall submit the written plan to the President of the Senate and the Speaker of the House of Representatives no later than November 1, 2015. The plan shall

identify the amount of general revenue funding appropriated for mental health and substance abuse services which is eligible to be used as state Medicaid match. The plan must evaluate alternative uses of increased Medicaid funding, including seeking Medicaid eligibility for the severely and persistently mentally ill; increased reimbursement rates for behavioral health services; adjustments to the capitation rate for Medicaid enrollees with chronic mental illness and substance use disorders; supplemental payments to mental health and substance abuse providers through a designated state health program or other mechanisms; and innovative programs for incentivizing improved outcomes for behavioral health conditions. The plan shall identify the advantages and disadvantages of each alternative and assess the potential of each for achieving improved integration of services. The plan shall identify the types of federal approvals necessary to implement each alternative and project a timeline for implementation.

Section 9. Sections (2) and (4) through (11) of section 394.9082, Florida Statutes, are amended to read:

394.9082 Behavioral health managing entities.—

(2) DEFINITIONS.—As used in this section, the term:

~~(b) "Decisionmaking model" means a comprehensive management information system needed to answer the following management questions at the federal, state, regional, circuit, and local provider levels: who receives what services from which providers with what outcomes and at what costs?~~

~~(c)~~ "Geographic area" means a county, circuit, regional, or multiregional area in this state.

(c) "Managed behavioral health organization" means a Medicaid managed care organization or a behavioral health specialty managed care organization operating in the state.

(d) "Managing entity" means a corporation that is organized in this state, is designated or filed as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code, or a managed behavioral health organization, which ~~and~~ is under contract to the department to manage the day-to-day operational delivery of behavioral health services through an organized system of care pursuant to subparagraph (4)(a)1.

(4) CONTRACT FOR SERVICES.—

(a)1. The department shall first attempt to ~~may~~ contract for the purchase and management of behavioral health services with community-based non-profit organizations with competence in managing networks of providers serving persons with mental health and substance use disorders to achieve the goals and outcomes provided in this section ~~managing entities~~. However, if fewer than two responsive bids are received to a solicitation for a managing entity contract, the department shall reissue the solicitation, and managed behavioral health organizations shall also be eligible to bid. In evaluating responses to a solicitation, the department must consider at a minimum the following factors:

a. Experience serving persons with mental health and

substance use disorders.

b. Establishment of community partnerships with behavioral health providers.

c. Demonstrated organizational capabilities for network management functions.

2. The department may require a managing entity to contract for specialized services that are not currently part of the managing entity's network if the department determines that to do so is in the best interests of consumers of services. ~~The secretary shall determine the schedule for phasing in contracts with managing entities. The managing entities shall, at a minimum, be accountable for the operational oversight of the delivery of behavioral health services funded by the department and for the collection and submission of the required data pertaining to these contracted services.~~ A managing entity shall serve a geographic area designated by the department. The geographic area must be of sufficient size in population and have enough public funds for behavioral health services to allow for flexibility and maximum efficiency.

~~(b) The operating costs of the managing entity contract shall be funded through funds from the department and any savings and efficiencies achieved through the implementation of managing entities when realized by their participating provider network agencies. The department recognizes that managing entities will have infrastructure development costs during start-up so that any efficiencies to be realized by providers~~

~~from consolidation of management functions, and the resulting savings, will not be achieved during the early years of operation. The department shall negotiate a reasonable and appropriate administrative cost rate with the managing entity. The Legislature intends that reduced local and state contract management and other administrative duties passed on to the managing entity allows funds previously allocated for these purposes to be proportionately reduced and the savings used to purchase the administrative functions of the managing entity. Policies and procedures of the department for monitoring contracts with managing entities shall include provisions for eliminating duplication of the department's and the managing entities' contract management and other administrative activities in order to achieve the goals of cost-effectiveness and regulatory relief. To the maximum extent possible, provider-monitoring activities shall be assigned to the managing entity.~~

(b) ~~(c)~~ The department's contract with each managing entity must be a performance-based agreement requiring specific results, setting measureable performance standards and timelines, and identifying consequences for failure to achieve specified performance standards.

(c) Contracting and payment mechanisms for services must promote clinical and financial flexibility and responsiveness and must allow different categorical funds to be integrated at the point of service. The contracted service array must be determined by using public input, needs assessment, and

evidence-based and promising best practice models. The department and managing entities may employ care management methodologies, prepaid capitation, and case rate or other methods of payment which promote flexibility, efficiency, and accountability.

(5) GOALS.—The department and managing entities shall: ~~goal of the service delivery strategies is to provide a design for an effective coordination, integration, and management approach for delivering effective~~

(a) Effectively deliver behavioral health services to persons who are experiencing a mental health or substance abuse crisis, who have a disabling mental illness or a substance use or co-occurring disorder, and require extended services in order to recover from their illness, or who need brief treatment or longer-term supportive interventions to avoid a crisis or disability. ~~Other goals include:~~

~~(a) Improving accountability for a local system of behavioral health care services to meet performance outcomes and standards through the use of reliable and timely data.~~

(b) ~~Enhancing the continuity of care~~ Provide a coordinated, integrated system of care for all children, adolescents, and adults who enter the publicly funded behavioral health service system.

(c) ~~Preserving the "safety net" of publicly funded behavioral health services and providers, and recognizing and ensuring continued local contributions to these services, by~~

~~establishing locally designed and community-monitored systems of care.~~

(d) Provide ~~Providing~~ early diagnosis and treatment interventions to enhance recovery and prevent hospitalization.

(e) Improve ~~Improving~~ the assessment of local needs for behavioral health services.

(f) Improve ~~Improving~~ the overall quality of behavioral health services through the use of evidence-based, best practice, and promising practice models.

(g) ~~Demonstrating improved~~ Improve service integration between behavioral health programs and other programs, such as vocational rehabilitation, education, child welfare, primary health care, emergency services, juvenile justice, and criminal justice.

(h) Provide ~~Providing~~ for additional testing of creative and flexible strategies for financing behavioral health services to enhance individualized treatment and support services.

~~(i) Promoting cost-effective quality care.~~

~~(j) Working with the state to coordinate admissions and discharges from state civil and forensic hospitals and coordinating admissions and discharges from residential treatment centers.~~

~~(k) Improving the integration, accessibility, and dissemination of behavioral health data for planning and monitoring purposes.~~

~~(l) Promoting specialized behavioral health services to~~

~~residents of assisted living facilities.~~

~~(m) Working with the state and other stakeholders to reduce the admissions and the length of stay for dependent children in residential treatment centers.~~

~~(n) Providing services to adults and children with co-occurring disorders of mental illnesses and substance abuse problems.~~

~~(o) Providing services to elder adults in crisis or at-risk for placement in a more restrictive setting due to a serious mental illness or substance abuse.~~

(6) ESSENTIAL ELEMENTS.~~It is the intent of the Legislature that~~ The department may plan for and enter into ~~contracts with managing entities to manage care in geographical areas throughout the state.~~

(a) The managing entity must demonstrate the ability of its network of providers to comply with the pertinent provisions of this chapter and chapter 397 and to ensure the provision of comprehensive behavioral health services. The network of providers must be comprehensive enough to meet client needs and include, but need not be limited to, community mental health agencies, substance abuse treatment providers, and best practice consumer services providers.

~~(b) The department shall terminate its mental health or substance abuse provider contracts for services to be provided by the managing entity at the same time it contracts with the managing entity.~~

~~(c) The managing entity shall ensure that its provider network is broadly conceived. All mental health or substance abuse treatment providers currently under contract with the department shall be offered a contract by the managing entity.~~

(d) The department shall ~~may~~ contract with managing entities to provide the following core functions:

1. Financial accountability.

2. Allocation of funds to network providers in a manner that reflects the department's strategic direction and plans.

3. Provider monitoring to ensure compliance with federal and state laws, rules, and regulations.

4. Data collection, reporting, and analysis.

5. Operational plans to implement objectives of the department's strategic plan.

6. Contract compliance.

7. Performance management.

8. Collaboration with community stakeholders, including local government.

9. System of care through network development.

10. Consumer care coordination.

a. To the extent allowed by available resources, the managing entity shall contract for the provision of care coordination to facilitate the appropriate delivery of behavioral health care services in the least restrictive setting, based on standardized level of care determinations, recommendations by a treating practitioner, and the consumer and

their family, as appropriate. In addition to treatment services, care coordination shall address the holistic needs of the consumer. It shall also involve coordination with other local systems and entities, public and private, that are involved with the consumer, such as primary health care, child welfare, behavioral health care, and criminal and juvenile justice. Care coordination shall be provided to populations in the following order of priority:

(I) Individuals with serious mental illness who have experienced multiple arrests, involuntary commitments, admittances to a state mental health treatment facility, or episodes of incarceration or have been placed on conditional release for a felony or violated condition of probation multiple times as a result of their behavioral health condition.

(II) Individuals in crisis stabilization units who are on the waitlist to a state treatment facility.

(III) Individuals in state treatment facilities on the waitlist to community-based care.

(IV) Parents or caretakers with child welfare involvement.

(V) Individuals who account for a disproportionate amount of behavioral health expenditures.

(VI) Other individuals eligible for services.

b. To the extent allowed by available resources, support services provided through care coordination may include but not be limited to the following, as determined by the individual's needs:

(I) Supportive housing, including licensed assisted living facilities, adult family care homes, mental health residential treatment facilities, and department-approved programs. Each housing arrangement must demonstrate an ability to ensure appropriate levels of residential supervision.

(II) Supported employment.

(III) Family support and education.

(IV) Independent living skill development.

(V) Peer support.

(VI) Wellness management and self-care.

(VII) Case management.

11. Continuous quality improvement.

12. Timely access to appropriate services.

13. Cost-effectiveness and system improvements.

14. Assistance in the development of the department's strategic plan.

15. Participation in community, circuit, regional, and state planning.

16. Resource management and maximization, including pursuit of third-party payments and grant applications.

17. Incentives for providers to improve quality and access.

18. Liaison with consumers.

19. Community needs assessment.

20. Securing local matching funds.

(e) The managing entity shall ensure that written

cooperative agreements are developed and implemented among the criminal and juvenile justice systems, the local community-based care network, and the local behavioral health providers in the geographic area which define strategies and alternatives for diverting people who have mental illness and substance abuse problems from the criminal justice system to the community. These agreements must also address the provision of appropriate services to persons who have behavioral health problems and leave the criminal justice system. The managing entity shall work with the civil court system to develop procedures for the evaluation and use of involuntary outpatient placement for individuals as a strategy for diverting future admissions to acute levels of care, jails, prisons, and forensic facilities, subject to the availability of funding for services.

(f) Managing entities must collect and submit data to the department regarding persons served, outcomes of persons served, and the costs of services provided through the department's contract, and other data points as required by the department. ~~The department shall evaluate managing entity services based on consumer-centered outcome measures that reflect national standards that can dependably be measured.~~ To the extent possible, the department shall use applicable measures based on nationally recognized standards such as the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration's National Outcome Measures or those developed by the National Quality Forum, the National Committee

for Quality Assurance, or similar credible sources. The managing entities shall report outcomes for all clients who have been served through the contract as long as they are clients of a network provider, even if the network provider serves that client during a portion of the year through non-contract funds. Within current resources, the department shall work with managing entities to establish performance standards related to, at a minimum:

1. The extent to which individuals in the community receive services.

2. The improvement in the overall behavioral health of a community.

3. The improvement in functioning or progress in recovery ~~improvement~~ of individuals served through care coordination, as determined using person-centered measures tailored to the population ~~of quality of care for individuals served~~.

3. The success of strategies to divert admissions to acute levels of care and jail, prison, and forensic facility admissions. At a minimum, performance standards shall consider the number and proportion of clients who, during a specified period, experience multiple admissions to acute levels of care, jails, prisons, or forensic facilities.

4. Consumer and family satisfaction.

5. The satisfaction of key community constituents such as law enforcement agencies, juvenile justice agencies, the courts, the schools, local government entities, hospitals, and others as

appropriate for the geographical area of the managing entity.

(g) The Agency for Health Care Administration may establish a certified match program, which must be voluntary. Under a certified match program, reimbursement is limited to the federal Medicaid share to Medicaid-enrolled strategy participants. The agency may take no action to implement a certified match program unless the consultation provisions of chapter 216 have been met. The agency may seek federal waivers that are necessary to implement the behavioral health service delivery strategies.

(7) MANAGING ENTITY REQUIREMENTS.—The department may adopt rules and standards and a process for the qualification and operation of managing entities which are based, in part, on the following criteria:

(a) ~~A managing entity's~~ The governance structure of a managing entity that is not a managed behavioral health organization shall be representative and shall, at a minimum, include consumers and family members, appropriate community stakeholders such as representatives of law enforcement, the courts, and the community-based care lead agency, ~~and organizations,~~ individuals with business expertise, and providers of substance abuse and mental health services as defined in this chapter and chapter 397. If there are one or more private-receiving facilities in the geographic coverage area of a managing entity, the managing entity shall have one representative for the private-receiving facilities as an ex

officio member of its board of directors. If the managing entity is a managed behavioral health organization, it shall have an advisory board that meets the requirements of this section.

~~(b) A managing entity that was originally formed primarily by substance abuse or mental health providers must present and demonstrate a detailed, consensus approach to expanding its provider network and governance to include both substance abuse and mental health providers.~~

(c) A managing entity must submit a network management plan and budget in a form and manner determined by the department. The plan must detail the means for implementing the duties to be contracted to the managing entity and the efficiencies to be anticipated by the department as a result of executing the contract. The department may require modifications to the plan and must approve the plan before contracting with a managing entity. Provider participation in the network is subject to credentials and performance standards set by the managing entity. The department may not require the managing entity to conduct provider network procurements in order to select providers. However, the managing entity shall have a process for publicizing opportunities to participate in its network, evaluating new participants for inclusion in its network, and evaluating current providers to determine whether they should remain network participants. ~~The department may contract with a managing entity that demonstrates readiness to~~

~~assume core functions, and may continue to add functions and responsibilities to the managing entity's contract over time as additional competencies are developed as identified in paragraph (g). Notwithstanding other provisions of this section, the department may continue and expand managing entity contracts if the department determines that the managing entity meets the requirements specified in this section.~~

~~(d) Notwithstanding paragraphs (b) and (c), a managing entity that is currently a fully integrated system providing mental health and substance abuse services, Medicaid, and child welfare services is permitted to continue operating under its current governance structure as long as the managing entity can demonstrate to the department that consumers, other stakeholders, and network providers are included in the planning process.~~

(e) Managing entities shall operate in a transparent manner, providing public access to information, notice of meetings, and opportunities for broad public participation in decisionmaking. The managing entity's network management plan must detail policies and procedures that ensure transparency.

(f) Before contracting with a managing entity, the department must perform an onsite readiness review of a managing entity to determine its operational capacity to satisfactorily perform the duties to be contracted.

(g) The department shall engage community stakeholders, including providers and managing entities under contract with

the department, in the development of objective standards to measure the competencies of managing entities ~~and their readiness to assume the responsibilities described in this section,~~ and the outcomes to hold them accountable.

~~(8) DEPARTMENT RESPONSIBILITIES.—With the introduction of managing entities to monitor department-contracted providers' day-to-day operations, the department and its regional and circuit offices will have increased ability to focus on broad systemic substance abuse and mental health issues. After the department enters into a managing entity contract in a geographic area, the regional and circuit offices of the department in that area shall direct their efforts primarily to monitoring the managing entity contract, including negotiation of system quality improvement goals each contract year, and review of the managing entity's plans to execute department strategic plans; carrying out statutorily mandated licensure functions; conducting community and regional substance abuse and mental health planning; communicating to the department the local needs assessed by the managing entity; preparing department strategic plans; coordinating with other state and local agencies; assisting the department in assessing local trends and issues and advising departmental headquarters on local priorities; and providing leadership in disaster planning and preparation.~~

(9) FUNDING FOR MANAGING ENTITIES.—

(a) A contract established between the department and a

managing entity under this section shall be funded by general revenue, other applicable state funds, or applicable federal funding sources. A managing entity may carry forward documented unexpended state funds from one fiscal year to the next; however, the cumulative amount carried forward may not exceed 8 percent of the total contract. Any unexpended state funds in excess of that percentage must be returned to the department. The funds carried forward may not be used in a way that would create increased recurring future obligations or for any program or service that is not currently authorized under the existing contract with the department. Expenditures of funds carried forward must be separately reported to the department. Any unexpended funds that remain at the end of the contract period shall be returned to the department. Funds carried forward may be retained through contract renewals and new procurements as long as the same managing entity is retained by the department.

(b) The method of payment for a fixed-price contract with a managing entity must provide for:

1. A 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter.

2. Payment upon verification that the managing entity has submitted complete and accurate data as required by the contract, pursuant to s. 394.74(3)(e).

3. Consequences for failure to achieve specified performance standards.

(10) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—

The department shall develop, implement, and maintain standards under which a managing entity shall collect utilization data from all public receiving facilities situated within its geographic service area. As used in this subsection, the term "public receiving facility" means an entity that meets the licensure requirements of and is designated by the department to operate as a public receiving facility under s. 394.875 and that is operating as a licensed crisis stabilization unit.

(a) The department shall develop standards and protocols for managing entities and public receiving facilities to be used for data collection, storage, transmittal, and analysis. The standards and protocols must allow for compatibility of data and data transmittal between public receiving facilities, managing entities, and the department for the implementation and requirements of this subsection. The department shall require managing entities contracted under this section to comply with this subsection by August 1, 2015.

(b) A managing entity shall require a public receiving facility within its provider network to submit data, in real time or at least daily, to the managing entity for:

1. All admissions and discharges of clients receiving public receiving facility services who qualify as indigent, as defined in s. 394.4787; and

2. Current active census of total licensed beds, the number of beds purchased by the department, the number of clients qualifying as indigent occupying those beds, and the

total number of unoccupied licensed beds regardless of funding.

(c) A managing entity shall require a public receiving facility within its provider network to submit data, on a monthly basis, to the managing entity which aggregates the daily data submitted under paragraph (b). The managing entity shall reconcile the data in the monthly submission to the data received by the managing entity under paragraph (b) to check for consistency. If the monthly aggregate data submitted by a public receiving facility under this paragraph is inconsistent with the daily data submitted under paragraph (b), the managing entity shall consult with the public receiving facility to make corrections as necessary to ensure accurate data.

(d) A managing entity shall require a public receiving facility within its provider network to submit data, on an annual basis, to the managing entity which aggregates the data submitted and reconciled under paragraph (c). The managing entity shall reconcile the data in the annual submission to the data received and reconciled by the managing entity under paragraph (c) to check for consistency. If the annual aggregate data submitted by a public receiving facility under this paragraph is inconsistent with the data received and reconciled under paragraph (c), the managing entity shall consult with the public receiving facility to make corrections as necessary to ensure accurate data.

(e) After ensuring accurate data under paragraphs (c) and (d), the managing entity shall submit the data to the department

on a monthly and an annual basis. The department shall create a statewide database for the data described under paragraph (b) and submitted under this paragraph for the purpose of analyzing the payments for and the use of crisis stabilization services funded by the Baker Act on a statewide basis and on an individual public receiving facility basis.

(f) The department shall adopt rules to administer this subsection.

(g) The department shall submit a report by January 31, 2016, and annually thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives which provides details on the implementation of this subsection, including the status of the data collection process and a detailed analysis of the data collected under this subsection ~~REPORTING.—Reports of the department's activities, progress, and needs in achieving the goal of contracting with managing entities in each circuit and region statewide must be submitted to the appropriate substantive and appropriations committees in the Senate and the House of Representatives on January 1 and July 1 of each year until the full transition to managing entities has been accomplished statewide.~~

(11) RULES.—The department may ~~shall~~ adopt rules to administer this section ~~and, as necessary, to further specify requirements of managing entities~~.

Section 10. For the 2015-2016 fiscal year, the sum of $175,000 in nonrecurring funds is appropriated from the Alcohol,

Drug Abuse, and Mental Health Trust Fund to the Department of Children and Families to implement the provisions of 394.9082(10).

Section 11. The department shall contract for a study of the safety-net mental health and substance abuse system administered by the department with an entity with expertise in behavioral healthcare and health systems planning and administration. The department shall submit an interim report by November 1, 2015, addressing subsections (1), (3), (4), and (8), and a final report by November 30, 2016, addressing all subsections. At a minimum, the study shall include:

(1) Baseline evaluation of the system's current operation and performance.

(2) Review of the populations required by state law to be served through the safety-net system and recommendations for prioritizing, revising, or removing them as required populations for services.

(3) Payment methodologies that would incentivize earlier intervention, appropriate matching of individuals' needs with services, increased coordination of care, and obtaining increased value for public funds while maintaining the safety-net aspect of the system.

(4) Mechanisms for increased coordination and integration between behavioral health and support services provided in different settings, such as criminal justice and child welfare, or paid for by other funders, such as Medicaid, through means

including but not limited to increased sharing of data regarding individuals' treatment histories and judicial involvement, consistent with federal limitations on such sharing.

(5) Evaluation of the ability of the behavioral health workforce to meet current demand, including consideration of recruitment, retention, turnover, and shortages.

(6) Strategies to increase flexibility in meeting the behavioral health needs of a community and eliminate programmatic, regulatory, and bureaucratic barriers that impede efforts to efficiently deliver behavioral health services.

(7) Options for revising requirements for competency restoration to reduce state funds expended on this function and increase the involvement of individuals with services that will result in long-term stabilization and recovery while maintaining public safety.

(8) Performance measures that would better measure the contributions of the safety-net system in improving the behavioral health of a community, such as addressing recidivism, readmittance to acute levels of care, and improvements in individuals' level of functioning.

(9) Best practices in involuntary commitment in other states and recommended changes to the Baker and Marchman Acts, including a discussion of the advantages and disadvantages of consolidating them. To facilitate this, the Supreme Court's Task Force on Substance Abuse and Mental Health Issues in the Courts is requested to provide a report including its

recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives no later than November 30, 2016.

Section 12. Section 397.402, Florida Statutes, is created to read:

397.402 Single, consolidated licensure.--No later than January 1, 2016, the department shall modify licensure rules and procedures to create an option for a single, consolidated license for a provider that offers multiple types of mental health and substance abuse services regulated under chapters 394 and 397. Providers eligible for a consolidated license must operate these services through a single corporate entity and a unified management structure. Any provider serving both adults and children must meet departmental standards for separate facilities and other requirements necessary to the safety of children and promote therapeutic efficacy.

Section 13. Section 394.4674, Florida Statutes, is repealed.

Section 14. Section 394.4985, Florida Statutes, is repealed.

Section 15. Section 394.745, Florida Statutes, is repealed.

Section 16. Section 394.9084, Florida Statutes, is repealed.

Section 17. Section 397.331, Florida Statutes, is repealed.

Section 18. Section 397.333, Florida Statutes, is repealed.

Section 19. Section 397.801, Florida Statutes, is repealed.

Section 20. Section 397.811, Florida Statutes, is repealed.

Section 21. Section 397.821, Florida Statutes, is repealed.

Section 22. Section 397.901, Florida Statutes, is repealed.

Section 23. Section 397.93, Florida Statutes, is repealed.

Section 24. Section 397.94, Florida Statutes, is repealed.

Section 25. Section 397.951, Florida Statutes, is repealed.

Section 26. Section 397.97, Florida Statutes, is repealed.

Section 27. Subsections (1) and (4) of section 765.110, Florida Statutes, is amended to read:

(1) A health care facility, pursuant to Pub. L. No. 101-508, ss. 4206 and 4751, shall provide to each patient written information concerning the individual's rights concerning advance directives, including advance directives providing for mental health treatment, and the health care facility's policies respecting the implementation of such rights, and shall document in the patient's medical records whether or not the individual has executed an advance directive.

(4) The Department of Elderly Affairs for hospices and, in consultation with the Department of Elderly Affairs, the Department of Health for health care providers; the Agency for Health Care Administration for hospitals, nursing homes, home health agencies, and health maintenance organizations; and the Department of Children and Families for facilities subject to part I of chapter 394 shall adopt rules to implement the provisions of the section. The Department of Children and Families shall develop a mental health advance directive form

which may be used by an individual to direct future care. The Department of Children and Families shall publish the suggested form on its website.

Section 28. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2015.