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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
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The Committee on Children, Families, and Elder Affairs
(Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Sections 400.9970 through 400.9984, Florida Statutes, are designated as part XI of chapter 400, Florida Statutes, entitled "Transitional Living Facilities."

Section 2. Section 400.9970, Florida Statutes, is created
to read:

400.9970 Legislative intent.—It is the intent of the Legislature to provide for the licensure of transitional living facilities and require the development, establishment, and



791768

13 enforcement of basic standards by the Agency for Health Care
14 Administration to ensure quality of care and services to clients
15 in transitional living facilities. It is the policy of the state
16 that the least restrictive appropriate available treatment be
17 used based on the individual needs and best interest of the
18 client and consistent with optimum improvement of the client's
19 condition. The goal of a transitional living program for
20 individuals who have brain or spinal cord injuries is to assist
21 each individual who has such an injury to achieve a higher level
22 of independent functioning and to enable that individual to
23 reenter the community.

24 Section 3. Section 400.9971, Florida Statutes, is created
25 to read:

26 400.9971 Definitions.—As used in this part, the term:

27 (1) "Agency" means the Agency for Health Care
28 Administration.

29 (2) "Chemical restraint" means a pharmacologic drug that
30 physically limits, restricts, or deprives an individual of
31 movement or mobility, is used for client protection or safety,
32 and is not required for the treatment of medical conditions or
33 symptoms.

34 (3) "Client's representative" means the parent of a child
35 client or the client's guardian, designated representative or
36 designee, surrogate, or attorney in fact.

37 (4) "Department" means the Department of Health.

38 (5) "Licensee" means an individual issued a license by the
39 agency.

40 (6) "Physical restraint" means any manual method to
41 restrict freedom of movement of or normal access to an



791768

42 individual's body or a physical or mechanical device, material,
43 or equipment attached or adjacent to the individual's body so
44 that he or she cannot easily remove the restraint and which
45 restricts freedom of movement of or normal access to one's body,
46 including, but not limited to, a half-bed rail, a full-bed rail,
47 a geriatric chair, and a posey restraint. The term includes any
48 device that was not specifically manufactured as a restraint but
49 which has been altered, arranged, or otherwise used for this
50 purpose. The term does not include bandage material used for the
51 purpose of binding a wound or injury.

52 (7) "Transitional living facility" means a site where
53 specialized health care services are provided, including, but
54 not limited to, rehabilitative services, behavior modification,
55 community reentry training, aids for independent living, and
56 counseling to individuals who have brain injuries or spinal cord
57 injuries. The term does not require a provider that is licensed
58 by the agency to obtain a separate transitional living facility
59 license to serve persons who have brain injuries or spinal cord
60 injuries as long as the services provided are within the scope
61 of the provider's license.

62 Section 4. Section 400.9972, Florida Statutes, is created
63 to read:

64 400.9972 License required; fee; application.-

65 (1) The requirements of part II of chapter 408 apply to the
66 provision of services that require licensure pursuant to this
67 part and part II of chapter 408 and to entities licensed by or
68 applying for such licensure from the agency pursuant to this
69 part. A license issued by the agency is required for the
70 operation of a transitional living facility in this state.



791768

71 (2) In accordance with this part, an applicant or a
72 licensee shall pay a fee for each license application submitted
73 under this part. The license fee shall consist of a \$4,588
74 license fee and a \$90 per-bed fee per biennium and shall conform
75 to the annual adjustment authorized in s. 408.805.

76 (3) Each applicant for licensure must provide the
77 following:

78 (a) The location of the facility for which a license is
79 sought and documentation, signed by the appropriate local
80 government official, which states that the applicant has met
81 local zoning requirements.

82 (b) Proof of liability insurance as provided in s. 624.605.

83 (c) Proof of compliance with local zoning requirements,
84 including compliance with the requirements of chapter 419 if the
85 proposed facility is a community residential home.

86 (d) Proof that the facility has received a satisfactory
87 firesafety inspection.

88 (e) Documentation of a satisfactory sanitation inspection
89 of the facility by the county health department.

90
91 The applicant's proposed facility must attain and continuously
92 maintain accreditation by an accrediting organization
93 specializing in evaluating rehabilitation facilities whose
94 standards incorporate comparable licensure regulations required
95 by the state. An applicant for licensure as a transitional
96 living facility must acquire accreditation within 12 months
97 after the issuance of an initial license. The agency shall
98 accept the accreditation survey report of the accrediting
99 organization in lieu of conducting a licensure inspection if the



791768

100 standards included in the survey report are determined by the
101 agency to document that the facility is in substantial
102 compliance with state licensure requirements. The applicant
103 shall submit to the agency within 10 days after receipt a copy
104 of any accreditation survey report and evidence of the
105 accreditation decision subsequent to a survey by the accrediting
106 organization on the facility. This part does not preclude the
107 agency from conducting periodic inspections of a transitional
108 living facility to ensure compliance with all licensure
109 requirements, and as it deems necessary to carry out the
110 functions of the agency. An inspection may be conducted to
111 ensure compliance with licensure requirements of this part, to
112 validate the inspection process of accrediting organizations, to
113 respond to licensure complaints, or to protect the public health
114 and safety.

115 Section 5. Section 400.9973, Florida Statutes, is created
116 to read:

117 400.9973 Client admission, transfer, and discharge.-

118 (1) Each transitional living facility must have written
119 policies and procedures governing the admission, transfer, and
120 discharge of clients.

121 (2) The admission of each client to a transitional living
122 facility must be in accordance with the licensee's policies and
123 procedures.

124 (3) A client admitted to a transitional living facility
125 must have a brain or spinal cord injury, such as a lesion to the
126 spinal cord or cauda equina syndrome, with evidence of
127 significant involvement of two of the following deficits or
128 dysfunctions:



791768

129 (a) A motor deficit.

130 (b) A sensory deficit.

131 (c) Bowel and bladder dysfunction.

132 (d) An acquired internal or external injury to the skull,
133 the brain, or the brain's covering, whether caused by a
134 traumatic or nontraumatic event, which produces an altered state
135 of consciousness or an anatomic motor, sensory, cognitive, or
136 behavioral deficit.

137 (4) A client whose medical diagnosis does not positively
138 identify a cause of the client's condition, whose symptoms are
139 inconsistent with the known cause of injury, or whose recovery
140 is inconsistent with the known medical condition may be admitted
141 to a transitional living facility for evaluation for a period
142 not to exceed 90 days.

143 (5) A client admitted to a transitional living facility
144 must be admitted upon prescription by a licensed physician and
145 must remain under the care of a licensed physician for the
146 duration of the client's stay in the facility.

147 (6) A transitional living facility may not admit a client
148 whose primary admitting diagnosis is mental illness or an
149 intellectual or a developmental disability.

150 (7) An individual may not be admitted to a transitional
151 living facility if the individual:

152 (a) Presents significant risk of infection to other clients
153 or personnel. A health care practitioner must provide
154 documentation that the individual is free of apparent signs and
155 symptoms of communicable disease;

156 (b) Is a danger to self or others as determined by a
157 physician or mental health practitioner licensed under chapter



791768

158 490 or chapter 491, unless the facility provides adequate
159 staffing and support to ensure patient safety;

160 (c) Is bedridden; or

161 (d) Requires 24-hour nursing supervision.

162 (8) If the client meets the admission criteria, the medical
163 or nursing director of the facility must complete an initial
164 evaluation of the client's functional skills, behavioral status,
165 cognitive status, educational or vocational potential, medical
166 status, psychosocial status, sensorimotor capacity, and other
167 related skills and abilities within the first 72 hours after the
168 client's admission to the facility. An initial comprehensive
169 treatment plan that delineates services to be provided and
170 appropriate sources for such services must be implemented within
171 the first 4 days after admission.

172 (9) Each transitional living facility shall develop a
173 discharge plan for each client before or upon admission to the
174 facility. The discharge plan must identify the intended
175 discharge site and possible alternative discharge sites. For
176 each discharge site identified, the discharge plan must identify
177 the skills, behaviors, and other conditions that the client must
178 achieve to be appropriate for discharge. Discharge plans must be
179 reviewed and updated as necessary, but no less often than once
180 monthly.

181 (10) As soon as practicable, a transitional living facility
182 shall discharge a client when he or she no longer requires any
183 of the specialized services described in s. 400.9971(7) or is
184 not making measurable progress in accordance with his or her
185 comprehensive treatment plan, or if the transitional living
186 facility is no longer the most appropriate, least restrictive



791768

187 treatment option.

188 (11) Each transitional living facility shall provide at
189 least 30 days' notice to clients of transfer or discharge plans,
190 including the location of an acceptable transfer location if the
191 client is unable to live independently. This requirement does
192 not apply if a client voluntarily terminates residency.

193 Section 6. Section 400.9974, Florida Statutes, is created
194 to read:

195 400.9974 Client comprehensive treatment plans; client
196 services.—

197 (1) Each transitional living facility shall develop a
198 comprehensive treatment plan for each client as soon as
199 possible, but no later than 30 days following development of the
200 initial comprehensive treatment plan. Comprehensive treatment
201 plans must be reviewed and updated if the client fails to meet
202 projected improvements in the plan or if a significant change in
203 the client's condition occurs. Comprehensive treatment plans
204 must be reviewed and updated at least once monthly.

205 Comprehensive treatment plans must be developed by an
206 interdisciplinary team consisting of the case manager, the
207 program director, the nurse, and appropriate therapists. The
208 client or, if appropriate, the client's representative must be
209 included in developing the comprehensive treatment plan.

210 (2) The comprehensive treatment plan must include the
211 following:

212 (a) The physician's orders and the client's diagnosis,
213 medical history, physical examination, and rehabilitative or
214 restorative needs.

215 (b) A preliminary nursing evaluation with physician's



791768

216 orders for immediate care, completed on admission.

217 (c) A comprehensive, accurate, reproducible, and
218 standardized assessment of the client's functional capability;
219 the treatments designed to achieve skills, behaviors, and other
220 conditions necessary to return to the community; and specific
221 measurable goals.

222 (d) Steps necessary for the client to achieve transition to
223 the community and estimated length of time to achieve the goals.

224 (3) The client or, if appropriate, the client's
225 representative shall consent to the continued treatment at the
226 transitional living facility. If such consent is not given, the
227 transitional living facility shall discharge the client as soon
228 as practicable.

229 (4) Each client must receive the professional program
230 services needed to implement the client's comprehensive
231 treatment plan.

232 (5) The licensee must employ qualified professional staff
233 to carry out and monitor the various professional interventions
234 in accordance with the stated goals and objectives of every
235 client's comprehensive treatment plan.

236 (6) Each client must receive a continuous treatment program
237 that includes appropriate, consistent implementation of a
238 program of specialized and general training, treatment, health
239 services, and related services which is directed toward:

240 (a) The acquisition of the behaviors and skills necessary
241 for the client to function with as much self-determination and
242 independence as possible;

243 (b) The prevention or deceleration of regression or loss of
244 current optimal functional status; and



791768

245 (c) The management of behavioral issues that preclude
246 independent functioning in the community.

247 Section 7. Section 400.9975, Florida Statutes, is created
248 to read:

249 400.9975 Licensee responsibilities.—

250 (1) The licensee shall ensure that each client:

251 (a) Lives in a safe environment free from abuse, neglect,
252 and exploitation.

253 (b) Is treated with consideration and respect and with due
254 recognition of personal dignity, individuality, and the need for
255 privacy.

256 (c) Retains and uses his or her own clothes and other
257 personal property in his or her immediate living quarters, so as
258 to maintain individuality and personal dignity, except when the
259 licensee can demonstrate that such retention and use would be
260 unsafe, impractical, or an infringement upon the rights of other
261 clients.

262 (d) Has unrestricted private communication, including
263 receiving and sending unopened correspondence, access to a
264 telephone, and visiting with any person of his or her choice.
265 Upon request, the licensee shall make provisions to modify
266 visiting hours for caregivers and guests. The facility shall
267 restrict communication in accordance with any court order or
268 written instruction of a client's representative. Any
269 restriction on a client's communication for therapeutic reasons
270 shall be documented and reviewed at least weekly and shall be
271 removed as soon as it is no longer clinically indicated. The
272 basis for the restriction shall be explained to the client and,
273 if applicable, the client's representative. The client shall



791768

274 nonetheless retain the right to call the abuse hotline, the
275 agency, and Disability Rights Florida at any and all times.

276 (e) Participates in and benefits from community services
277 and activities to achieve the highest possible level of
278 independence, autonomy, and interaction within the community.

279 (f) Manages his or her financial affairs unless the client
280 or, if applicable, the client's representative authorizes the
281 administrator of the facility to provide safekeeping for funds
282 as provided in this part.

283 (g) Has reasonable opportunity for regular exercise several
284 times a week and to be outdoors at regular and frequent
285 intervals except when prevented by inclement weather.

286 (h) Exercises civil and religious liberties, including the
287 right to independent personal decisions. No religious belief or
288 practice, including attendance at religious services, shall be
289 imposed upon any client.

290 (i) Has access to adequate and appropriate health care
291 consistent with established and recognized standards within the
292 community.

293 (j) Has the ability to present grievances and recommend
294 changes in policies, procedures, and services to the staff of
295 the licensee, governing officials, or any other person without
296 restraint, interference, coercion, discrimination, or reprisal.
297 Each licensee shall establish a grievance procedure to
298 facilitate a client's ability to present grievances, including a
299 system for investigating, tracking, managing, and responding to
300 complaints by persons receiving services or individuals acting
301 on their behalf, and an appeals process. This process must
302 include access to Disability Rights Florida and other advocates



791768

303 and the right to be a member of, be active in, and associate
304 with advocacy or special interest groups.

305 (2) The licensee shall:

306 (a) Promote participation of each client's representative
307 in the process of providing treatment to the client unless the
308 representative's participation is unobtainable or inappropriate.

309 (b) Answer communications from each client's family,
310 guardians, and friends promptly and appropriately.

311 (c) Promote visits by individuals with a relationship to
312 the client at any reasonable hour, without requiring prior
313 notice, or in any area of the facility which provides direct
314 client care services to the client, consistent with the client's
315 and other clients' privacy, unless the interdisciplinary team
316 determines that such a visit would not be appropriate.

317 (d) Promote leave from the facility for visits, trips, or
318 vacations.

319 (e) Promptly notify the client's representative of any
320 significant incidents or changes in the client's condition,
321 including, but not limited to, serious illness, accident, abuse,
322 unauthorized absence, or death.

323 (3) The administrator of a facility shall ensure that a
324 written notice of licensee responsibilities is posted in a
325 prominent place in each building where clients reside and read
326 or explained to clients who cannot read. This notice shall
327 include the statewide toll-free telephone number for reporting
328 complaints to the agency, must be provided to clients in a
329 manner that is clearly legible, and must include the words: "To
330 report a complaint regarding the services you receive, please
331 call toll-free ...[telephone number]... or Disability Rights



791768

332 Florida ...[telephone number]..."; and the statewide toll-free
333 telephone number for the central abuse hotline must be provided
334 to clients in a manner that is clearly legible and must include
335 the words: "To report abuse, neglect or exploitation, please
336 call toll-free ...[telephone number where complaints may be
337 lodged]...." The licensee must ensure a client's access to a
338 telephone, where telephone numbers required in this subsection
339 are readily available, to call the agency, central abuse
340 hotline, or Disability Rights Florida.

341 (4) A licensee or employee of a facility may not serve
342 notice upon a client to leave the premises or take any other
343 retaliatory action against any person solely due to the
344 following:

345 (a) The client or other person files an internal or
346 external complaint or grievance regarding the facility.

347 (b) The client or other person appears as a witness in any
348 hearing inside or outside the facility.

349 (5) Before or at the time of admission, the client and the
350 client's representative shall be provided with a copy of the
351 licensee's responsibilities as provided in this section,
352 including grievance procedures and the telephone numbers
353 provided in this section.

354 (6) The licensee must develop and implement policies and
355 procedures governing the release of any client information,
356 including consent necessary from the client or the client's
357 representative.

358 Section 8. Section 400.9976, Florida Statutes, is created
359 to read:

360 400.9976 Medication practices.—



791768

361 (1) An individual medication administration record must be
362 maintained for each client. Each dose of medication, including a
363 self-administered dose, shall be properly recorded in the
364 client's record. Each client who self-administers medication
365 shall be given a pill organizer. Medication must be placed in
366 the pill organizer by a nurse. A nurse shall document the date
367 and time medication is placed into each client's pill organizer.
368 All medications must be administered in compliance with the
369 physician's orders.

370 (2) If the interdisciplinary team determines that self-
371 administration of medications is an appropriate objective, and
372 if the physician does not specify otherwise, a client must be
373 taught to self-administer his or her medication without a staff
374 person. This includes all forms of administration, including
375 orally, via injection, and via suppository. The client's
376 physician must be informed of the interdisciplinary team's
377 decision that self-administration of medications is an objective
378 for the client. A client may not self-administer medication
379 until he or she demonstrates the competency to take the correct
380 medication in the correct dosage at the correct time, to respond
381 to missed doses, and to contact an appropriate person with
382 questions.

383 (3) Medication administration discrepancies and adverse
384 drug reactions must be recorded and reported immediately to a
385 physician.

386 Section 9. Section 400.9977, Florida Statutes, is created
387 to read:

388 400.9977 Protection from abuse, neglect, mistreatment, and
389 exploitation.-The licensee must develop and implement policies



791768

390 and procedures for the screening and training of employees, the
391 protection of clients, and the prevention, identification,
392 investigation, and reporting of abuse, neglect, and
393 exploitation. This includes the licensee's identification of
394 clients whose personal histories render them at risk for abusing
395 other clients, development of intervention strategies to prevent
396 occurrences, monitoring for changes that would trigger abusive
397 behavior, and reassessment of the interventions on a regular
398 basis. A licensee shall implement procedures to:

399 (1) Screen potential employees for a history of abuse,
400 neglect, or mistreatment of clients. The screening shall include
401 an attempt to obtain information from previous employers and
402 current employers and verification with the appropriate
403 licensing boards and registries.

404 (2) Train employees, through orientation and ongoing
405 sessions, on issues related to abuse prohibition practices,
406 including identification of abuse, neglect, mistreatment, and
407 exploitation, appropriate interventions to deal with aggressive
408 or catastrophic reactions of clients, the process to report
409 allegations without fear of reprisal, and recognition of signs
410 of frustration and stress that may lead to abuse.

411 (3) Provide clients, families, and staff with information
412 on how and to whom they may report concerns, incidents, and
413 grievances without the fear of retribution and provide feedback
414 regarding the concerns that have been expressed. A licensee must
415 identify, correct, and intervene in situations in which abuse,
416 neglect, mistreatment, or exploitation is likely to occur,
417 including:

418 (a) Evaluating the physical environment of the facility to



791768

419 identify characteristics that may make abuse or neglect more
420 likely to occur, such as secluded areas.

421 (b) Providing sufficient staff on each shift to meet the
422 needs of the clients, and ensuring that the staff assigned have
423 knowledge of the individual clients' care needs. The licensee
424 shall identify inappropriate behaviors of its staff, such as
425 using derogatory language, rough handling, ignoring clients
426 while giving care, and directing clients who need toileting
427 assistance to urinate or defecate in their beds.

428 (c) Assessing, planning care for, and monitoring clients
429 with needs and behaviors that might lead to conflict or neglect,
430 such as clients with a history of aggressive behaviors, clients
431 who have behaviors such as entering other clients' rooms,
432 clients with self-injurious behaviors, clients with
433 communication disorders, and clients who require heavy nursing
434 care or are totally dependent on staff.

435 (4) Identify events, such as suspicious bruising of
436 clients, occurrences, patterns, and trends that may constitute
437 abuse and determine the direction of the investigation.

438 (5) Investigate different types of incidents, identify the
439 staff member responsible for the initial reporting, investigate
440 alleged violations, and report results to the proper
441 authorities. The licensee must analyze the occurrences to
442 determine what changes are needed, if any, to policies and
443 procedures to prevent further occurrences and to take all
444 necessary corrective action depending on the results of the
445 investigation.

446 (6) Protect clients from harm during an investigation.

447 (7) Report all alleged violations and all substantiated



791768

448 incidents, as required under chapters 39 and 415, to the
449 licensing authorities and all other agencies as required and to
450 report any knowledge it has of any actions by a court of law
451 that would indicate an employee is unfit for service.

452 Section 10. Section 400.9978, Florida Statutes, is created
453 to read:

454 400.9978 Restraints and seclusion; client safety.-

455 (1) The use of physical restraints must be ordered and
456 documented by a physician and must be consistent with policies
457 and procedures adopted by the facility. The client or, if
458 applicable, the client's representative must be informed of the
459 facility's physical restraint policies and procedures at the
460 time of the client's admission.

461 (2) The use of chemical restraints is limited to prescribed
462 dosages of medications as ordered by a physician and must be
463 consistent with the client's diagnosis and the policies and
464 procedures adopted by the facility. The client or, if
465 applicable, the client's representative must be informed of the
466 facility's chemical restraint policies and procedures at the
467 time of the client's admission.

468 (3) Based on a physician's assessment, if a client exhibits
469 symptoms that present an immediate risk of injury or death to
470 self or others, a physician may issue an emergency treatment
471 order to immediately administer rapid response psychotropic
472 medications or other chemical restraints. Each emergency
473 treatment order must be documented and maintained in the
474 client's record.

475 (a) An emergency treatment order is effective for no more
476 than 24 hours.



791768

477 (b) Whenever a client is medicated in accordance with this
478 subsection, the client's representative or responsible party and
479 the client's physician must be notified as soon as practicable.

480 (4) A client who is prescribed and receiving a medication
481 that can serve as a chemical restraint for a purpose other than
482 an emergency treatment order must be evaluated by his or her
483 physician at least monthly to assess the following:

484 (a) The continued need for the medication.

485 (b) The level of the medication in the client's blood, as
486 appropriate.

487 (c) The need for adjustments in the prescription.

488 (5) The licensee shall ensure that clients are free from
489 unnecessary drugs and physical restraints and are provided
490 treatment to reduce dependency on drugs and physical restraints.

491 (6) The licensee may use physical restraints only as an
492 integral part of a client's comprehensive treatment plan which
493 is intended to lead to less restrictive means of managing and
494 eliminating the behavior for which the restraint is applied.

495 (7) Interventions to manage inappropriate client behavior
496 must be employed with sufficient safeguards and supervision to
497 ensure that the safety, welfare, and civil and human rights of
498 each client are adequately protected.

499 Section 11. Section 400.9979, Florida Statutes, is created
500 to read:

501 400.9979 Background screening; administration and
502 management.—

503 (1) The agency shall require level 2 background screening
504 for personnel as required in s. 408.809(1)(e) pursuant to
505 chapter 435 and s. 408.809.



791768

506 (2) The licensee shall maintain personnel records for each
507 staff member which contain, at a minimum, documentation of
508 background screening, if applicable, a job description,
509 documentation of compliance with all training requirements of
510 this part or applicable rule, the employment application,
511 references, a copy of all job performance evaluations, and, for
512 each staff member who performs services for which licensure or
513 certification is required, a copy of all licenses or
514 certification held by the staff member.

515 (3) The licensee must:

516 (a) Develop and implement infection control policies and
517 procedures and include such policies and procedures in the
518 licensee's policy manual.

519 (b) Maintain liability insurance as defined in s. 624.605.

520 (c) Designate one person as an administrator who is
521 responsible and accountable for the overall management of the
522 facility.

523 (d) Designate a person in writing to be responsible for the
524 facility when the administrator is absent from the facility for
525 more than 24 hours.

526 (e) Designate in writing a program director who is
527 responsible for supervising the therapeutic and behavioral
528 staff, determining the levels of supervision, and determining
529 room placement for each client.

530 (f) Designate in writing a person to be responsible when
531 the program director is absent from the facility for more than
532 24 hours.

533 (g) Obtain approval of the comprehensive emergency
534 management plan, pursuant to s. 400.9981(2)(e), from the local



791768

535 emergency management agency. Pending the approval of the plan,
536 the local emergency management agency shall ensure that the
537 following agencies, at a minimum, are given the opportunity to
538 review the plan: the Department of Health, the Agency for Health
539 Care Administration, and the Division of Emergency Management.
540 Appropriate volunteer organizations must also be given the
541 opportunity to review the plan. The local emergency management
542 agency shall complete its review within 60 days and either
543 approve the plan or advise the licensee of necessary revisions.

544 (h) Maintain written records in a form and system that
545 comply with medical and business practices and make such records
546 available in the facility for review or submission to the agency
547 upon request. The records shall include:

548 1. A daily census record that indicates the number of
549 clients currently receiving services in the facility, including
550 information regarding any public funding of such clients.

551 2. A record of all accidents or unusual incidents involving
552 any client or staff member that caused, or had the potential to
553 cause, injury or harm to any person or property within the
554 facility. Such records must contain a clear description of each
555 accident or incident, the names of the persons involved, a
556 description of all medical or other services provided to these
557 persons specifying who provided such services, and the steps
558 taken to prevent recurrence of such accidents or incidents.

559 3. A copy of current agreements with third-party providers.

560 4. A copy of current agreements with each consultant
561 employed by the licensee and documentation of each consultant's
562 visits and required written, dated reports.

563 Section 12. Section 400.9980, Florida Statutes, is created



791768

564 to read:

565 400.9980 Property and personal affairs of clients.—

566 (1) A client shall be given the option of using his or her
567 own belongings, as space permits; choosing his or her roommate
568 if practical and not clinically contraindicated; and, whenever
569 possible, unless the client is adjudicated incompetent or
570 incapacitated under state law, managing his or her own affairs.

571 (2) The admission of a client to a facility and his or her
572 presence therein shall not confer on a licensee, administrator,
573 employee, or representative thereof any authority to manage,
574 use, or dispose of any property of the client, nor shall such
575 admission or presence confer on any of such persons any
576 authority or responsibility for the personal affairs of the
577 client except that which may be necessary for the safe
578 management of the facility or for the safety of the client.

579 (3) A licensee, administrator, employee, or representative
580 thereof may:

581 (a) Not act as the guardian, trustee, or conservator for
582 any client or any of such client's property.

583 (b) Act as a competent client's payee for social security,
584 veteran's, or railroad benefits if the client provides consent
585 and the licensee files a surety bond with the agency in an
586 amount equal to twice the average monthly aggregate income or
587 personal funds due to the client, or expendable for the client's
588 account, that are received by a licensee.

589 (c) Act as the power of attorney for a client if the
590 licensee has filed a surety bond with the agency in an amount
591 equal to twice the average monthly income of the client, plus
592 the value of any client's property under the control of the



791768

593 attorney in fact.

594

595 The bond under paragraph (b) or paragraph (c) shall be executed
596 by the licensee as principal and a licensed surety company. The
597 bond shall be conditioned upon the faithful compliance of the
598 licensee with the requirements of licensure and shall be payable
599 to the agency for the benefit of any client who suffers a
600 financial loss as a result of the misuse or misappropriation of
601 funds held pursuant to this subsection. Any surety company that
602 cancels or does not renew the bond of any licensee shall notify
603 the agency in writing not less than 30 days in advance of such
604 action, giving the reason for the cancellation or nonrenewal.
605 Any licensee, administrator, employee, or representative thereof
606 who is granted power of attorney for any client of the facility
607 shall, on a monthly basis, notify the client in writing of any
608 transaction made on behalf of the client pursuant to this
609 subsection, and a copy of such notification given to the client
610 shall be retained in each client's file and available for agency
611 inspection.

612 (4) A licensee, upon mutual consent with the client, shall
613 provide for the safekeeping in the facility of the client's
614 personal effects of a value not in excess of \$1,000 and the
615 client's funds not in excess of \$500 cash and shall keep
616 complete and accurate records of all such funds and personal
617 effects received. If a client is absent from a facility for 24
618 hours or more, the licensee may provide for the safekeeping of
619 the client's personal effects of a value in excess of \$1,000.

620 (5) Any funds or other property belonging to or due to a
621 client or expendable for his or her account that is received by



791768

622 licensee shall be trust funds and shall be kept separate from
623 the funds and property of the licensee and other clients or
624 shall be specifically credited to such client. Such trust funds
625 shall be used or otherwise expended only for the account of the
626 client. At least once every month, unless upon order of a court
627 of competent jurisdiction, the licensee shall furnish the client
628 and the client's representative a complete and verified
629 statement of all funds and other property to which this
630 subsection applies, detailing the amount and items received,
631 together with their sources and disposition. In any event, the
632 licensee shall furnish such statement annually and upon the
633 discharge or transfer of a client. Any governmental agency or
634 private charitable agency contributing funds or other property
635 to the account of a client shall also be entitled to receive
636 such statement monthly and upon the discharge or transfer of the
637 client.

638 (6) (a) In addition to any damages or civil penalties to
639 which a person is subject, any person who:

640 1. Intentionally withholds a client's personal funds,
641 personal property, or personal needs allowance, or who demands,
642 beneficially receives, or contracts for payment of all or any
643 part of a client's personal property or personal needs allowance
644 in satisfaction of the facility rate for supplies and services;
645 or

646 2. Borrows from or pledges any personal funds of a client,
647 other than the amount agreed to by written contract under s.
648 429.24,

649
650 commits a misdemeanor of the first degree, punishable as



791768

651 provided in s. 775.082 or s. 775.083.

652 (b) Any licensee, administrator, employee, or
653 representative thereof who is granted power of attorney for any
654 client of the facility and who misuses or misappropriates funds
655 obtained through this power commits a felony of the third
656 degree, punishable as provided in s. 775.082, s. 775.083, or s.
657 775.084.

658 (7) In the event of the death of a client, a licensee shall
659 return all refunds, funds, and property held in trust to the
660 client's personal representative, if one has been appointed at
661 the time the licensee disburses such funds, or, if not, to the
662 client's spouse or adult next of kin named in a beneficiary
663 designation form provided by the licensee to the client. If the
664 client has no spouse or adult next of kin or such person cannot
665 be located, funds due the client shall be placed in an interest-
666 bearing account and all property held in trust by the licensee
667 shall be safeguarded until such time as the funds and property
668 are disbursed pursuant to the Florida Probate Code. Such funds
669 shall be kept separate from the funds and property of the
670 licensee and other clients of the facility. If the funds of the
671 deceased client are not disbursed pursuant to the Florida
672 Probate Code within 2 years after the client's death, the funds
673 shall be deposited in the Health Care Trust Fund administered by
674 the agency.

675 (8) The agency, by rule, may clarify terms and specify
676 procedures and documentation necessary to administer the
677 provisions of this section relating to the proper management of
678 clients' funds and personal property and the execution of surety
679 bonds.



791768

680 Section 13. Section 400.9981, Florida Statutes, is created
681 to read:

682 400.9981 Rules establishing standards.—

683 (1) It is the intent of the Legislature that rules
684 published and enforced pursuant to this part and part II of
685 chapter 408 include criteria to ensure reasonable and consistent
686 quality of care and client safety. Rules should make reasonable
687 efforts to accommodate the needs and preferences of clients to
688 enhance the quality of life in transitional living facilities.

689 (2) The agency may adopt and enforce rules to implement
690 this part and part II of chapter 408, which shall include
691 reasonable and fair criteria in relation to the following:

692 (a) The location of transitional living facilities.

693 (b) The number of qualifications of all personnel,
694 including management, medical, nursing, and other professional
695 personnel and nursing assistants and support personnel having
696 responsibility for any part of the care given to clients. The
697 licensee must have enough qualified professional staff available
698 to carry out and monitor the various professional interventions
699 in accordance with the stated goals and objectives of each
700 comprehensive treatment plan.

701 (c) Requirements for personnel procedures, insurance
702 coverage, reporting procedures, and documentation necessary to
703 implement this part.

704 (d) Services provided to clients of transitional living
705 facilities.

706 (e) The preparation and annual update of a comprehensive
707 emergency management plan in consultation with the Division of
708 Emergency Management. At a minimum, the rules must provide for



791768

709 plan components that address emergency evacuation
710 transportation; adequate sheltering arrangements; postdisaster
711 activities, including provision of emergency power, food, and
712 water; postdisaster transportation; supplies; staffing;
713 emergency equipment; individual identification of clients and
714 transfer of records; communication with families; and responses
715 to family inquiries.

716 Section 14. Section 400.9982, Florida Statutes, is created
717 to read:

718 400.9982 Violations; penalties.—

719 (1) Each violation of this part and rules adopted pursuant
720 thereto shall be classified according to the nature of the
721 violation and the gravity of its probable effect on facility
722 clients. The agency shall indicate the classification on the
723 written notice of the violation as follows:

724 (a) Class "I" violations are defined in s. 408.813. The
725 agency shall issue a citation regardless of correction and
726 impose an administrative fine of \$5,000 for an isolated
727 violation, \$7,500 for a patterned violation, and \$10,000 for a
728 widespread violation. Violations may be identified and a fine
729 must be levied notwithstanding the correction of the deficiency
730 giving rise to the violation.

731 (b) Class "II" violations are defined in s. 408.813. The
732 agency shall impose an administrative fine of \$1,000 for an
733 isolated violation, \$2,500 for a patterned violation, and \$5,000
734 for a widespread violation. A fine must be levied
735 notwithstanding the correction of the deficiency giving rise to
736 the violation.

737 (c) Class "III" violations are defined in s. 408.813. The



791768

738 agency shall impose an administrative fine of \$500 for an
739 isolated violation, \$750 for a patterned violation, and \$1,000
740 for a widespread violation. If a deficiency giving rise to a
741 class "III" violation is corrected within the time specified by
742 the agency, a fine may not be imposed.

743 (d) Class "IV" violations are defined in s. 408.813. The
744 agency shall impose an administrative fine for a cited class IV
745 violation in an amount not less than \$100 and not exceeding \$200
746 for each violation.

747 Section 15. Section 400.9983, Florida Statutes, is created
748 to read:

749 400.9983 Receivership proceedings.—The agency may apply s.
750 429.22 with regard to receivership proceedings for transitional
751 living facilities.

752 Section 16. Section 400.9984, Florida Statutes, is created
753 to read:

754 400.9984 Interagency communication.—The agency, the
755 department, the Agency for Persons with Disabilities, and the
756 Department of Children and Families shall develop electronic
757 systems to ensure that relevant information pertaining to the
758 regulation of transitional living facilities and clients is
759 timely and effectively communicated among agencies in order to
760 facilitate the protection of clients. Electronic sharing of
761 information shall include, at a minimum, a brain and spinal cord
762 injury registry and a client abuse registry.

763 Section 17. Section 400.805, Florida Statutes, is repealed.
764 Every transitional living facility licensed under s. 400.805 on
765 or before July 1, 2013, shall be licensed under the provisions
766 of this act.



791768

767 Section 18. Subsection (9) of section 381.745, Florida
768 Statutes, is amended to read:

769 381.745 Definitions; ss. 381.739-381.79.—As used in ss.
770 381.739-381.79, the term:

771 (9) "Transitional living facility" means a state-approved
772 facility, as defined and licensed under chapter 400 ~~or chapter~~
773 ~~429, or a facility approved by the brain and spinal cord injury~~
774 ~~program in accordance with this chapter.~~

775 Section 19. Section 381.75, Florida Statutes, is amended to
776 read:

777 381.75 Duties and responsibilities of the department, ~~of~~
778 ~~transitional living facilities, and of residents.~~—Consistent
779 with the mandate of s. 381.7395, the department shall develop
780 and administer a multilevel treatment program for individuals
781 who sustain brain or spinal cord injuries and who are referred
782 to the brain and spinal cord injury program.

783 (1) Within 15 days after any report of an individual who
784 has sustained a brain or spinal cord injury, the department
785 shall notify the individual or the most immediate available
786 family members of their right to assistance from the state, the
787 services available, and the eligibility requirements.

788 (2) The department shall refer individuals who have brain
789 or spinal cord injuries to other state agencies to assure that
790 rehabilitative services, if desired, are obtained by that
791 individual.

792 (3) The department, in consultation with emergency medical
793 service, shall develop standards for an emergency medical
794 evacuation system that will ensure that all individuals who
795 sustain traumatic brain or spinal cord injuries are transported



791768

796 to a department-approved trauma center that meets the standards
797 and criteria established by the emergency medical service and
798 the acute-care standards of the brain and spinal cord injury
799 program.

800 (4) The department shall develop standards for designation
801 of rehabilitation centers to provide rehabilitation services for
802 individuals who have brain or spinal cord injuries.

803 (5) The department shall determine the appropriate number
804 of designated acute-care facilities, inpatient rehabilitation
805 centers, and outpatient rehabilitation centers, needed based on
806 incidence, volume of admissions, and other appropriate criteria.

807 (6) The department shall develop standards for designation
808 of transitional living facilities to provide transitional living
809 services for individuals who participate in the brain and spinal
810 cord injury program ~~the opportunity to adjust to their~~
811 ~~disabilities and to develop physical and functional skills in a~~
812 ~~supported living environment.~~

813 ~~(a) The Agency for Health Care Administration, in~~
814 ~~consultation with the department, shall develop rules for the~~
815 ~~licensure of transitional living facilities for individuals who~~
816 ~~have brain or spinal cord injuries.~~

817 ~~(b) The goal of a transitional living program for~~
818 ~~individuals who have brain or spinal cord injuries is to assist~~
819 ~~each individual who has such a disability to achieve a higher~~
820 ~~level of independent functioning and to enable that person to~~
821 ~~reenter the community. The program shall be focused on preparing~~
822 ~~participants to return to community living.~~

823 ~~(c) A transitional living facility for an individual who~~
824 ~~has a brain or spinal cord injury shall provide to such~~



791768

825 ~~individual, in a residential setting, a goal-oriented treatment~~
826 ~~program designed to improve the individual's physical,~~
827 ~~cognitive, communicative, behavioral, psychological, and social~~
828 ~~functioning, as well as to provide necessary support and~~
829 ~~supervision. A transitional living facility shall offer at least~~
830 ~~the following therapies: physical, occupational, speech,~~
831 ~~neuropsychology, independent living skills training, behavior~~
832 ~~analysis for programs serving brain-injured individuals, health~~
833 ~~education, and recreation.~~

834 ~~(d) All residents shall use the transitional living~~
835 ~~facility as a temporary measure and not as a permanent home or~~
836 ~~domicile. The transitional living facility shall develop an~~
837 ~~initial treatment plan for each resident within 3 days after the~~
838 ~~resident's admission. The transitional living facility shall~~
839 ~~develop a comprehensive plan of treatment and a discharge plan~~
840 ~~for each resident as soon as practical, but no later than 30~~
841 ~~days after the resident's admission. Each comprehensive~~
842 ~~treatment plan and discharge plan must be reviewed and updated~~
843 ~~as necessary, but no less often than quarterly. This subsection~~
844 ~~does not require the discharge of an individual who continues to~~
845 ~~require any of the specialized services described in paragraph~~
846 ~~(c) or who is making measurable progress in accordance with that~~
847 ~~individual's comprehensive treatment plan. The transitional~~
848 ~~living facility shall discharge any individual who has an~~
849 ~~appropriate discharge site and who has achieved the goals of his~~
850 ~~or her discharge plan or who is no longer making progress toward~~
851 ~~the goals established in the comprehensive treatment plan and~~
852 ~~the discharge plan. The discharge location must be the least~~
853 ~~restrictive environment in which an individual's health, well-~~



791768

854 ~~being, and safety is preserved.~~

855 ~~(7) Recipients of services, under this section, from any of~~
856 ~~the facilities referred to in this section shall pay a fee based~~
857 ~~on ability to pay.~~

858 Section 20. Subsection (4) of section 381.78, Florida
859 Statutes, is amended to read:

860 381.78 Advisory council on brain and spinal cord injuries.-

861 (4) The council shall:

862 ~~(a) provide advice and expertise to the department in the~~
863 ~~preparation, implementation, and periodic review of the brain~~
864 ~~and spinal cord injury program.~~

865 ~~(b) Annually appoint a five-member committee composed of~~
866 ~~one individual who has a brain injury or has a family member~~
867 ~~with a brain injury, one individual who has a spinal cord injury~~
868 ~~or has a family member with a spinal cord injury, and three~~
869 ~~members who shall be chosen from among these representative~~
870 ~~groups: physicians, other allied health professionals,~~
871 ~~administrators of brain and spinal cord injury programs, and~~
872 ~~representatives from support groups with expertise in areas~~
873 ~~related to the rehabilitation of individuals who have brain or~~
874 ~~spinal cord injuries, except that one and only one member of the~~
875 ~~committee shall be an administrator of a transitional living~~
876 ~~facility. Membership on the council is not a prerequisite for~~
877 ~~membership on this committee.~~

878 ~~1. The committee shall perform onsite visits to those~~
879 ~~transitional living facilities identified by the Agency for~~
880 ~~Health Care Administration as being in possible violation of the~~
881 ~~statutes and rules regulating such facilities. The committee~~
882 ~~members have the same rights of entry and inspection granted~~



791768

883 ~~under s. 400.805(4) to designated representatives of the agency.~~

884 ~~2. Factual findings of the committee resulting from an~~
885 ~~onsite investigation of a facility pursuant to subparagraph 1.~~
886 ~~shall be adopted by the agency in developing its administrative~~
887 ~~response regarding enforcement of statutes and rules regulating~~
888 ~~the operation of the facility.~~

889 ~~3. Onsite investigations by the committee shall be funded~~
890 ~~by the Health Care Trust Fund.~~

891 ~~4. Travel expenses for committee members shall be~~
892 ~~reimbursed in accordance with s. 112.061.~~

893 ~~5. Members of the committee shall recuse themselves from~~
894 ~~participating in any investigation that would create a conflict~~
895 ~~of interest under state law, and the council shall replace the~~
896 ~~member, either temporarily or permanently.~~

897 Section 21. This act shall take effect July 1, 2013.

898
899 ===== T I T L E A M E N D M E N T =====

900 And the title is amended as follows:

901 Delete everything before the enacting clause
902 and insert:

903 A bill to be entitled
904 An act relating to transitional living facilities;
905 creating part XI of ch. 400, F.S., entitled
906 "Transitional Living Facilities"; creating s.
907 400.9970, F.S.; providing legislative intent; creating
908 s. 400.9971, F.S.; providing definitions; creating s.
909 400.9972, F.S.; requiring the licensure of
910 transitional living facilities; providing fees;
911 providing license application requirements; creating



791768

912 s. 400.9973, F.S.; providing requirements for
913 transitional living facilities relating to client
914 admission, transfer, and discharge; creating s.
915 400.9974, F.S.; requiring a comprehensive treatment
916 plan to be developed for each client; providing plan
917 requirements; creating s. 400.9975, F.S.; providing
918 licensee responsibilities; providing notice
919 requirements; prohibiting a licensee or employee of a
920 facility from serving notice upon a client to leave
921 the premises or take other retaliatory action;
922 requiring the client and client's representative to be
923 provided with certain information; requiring the
924 licensee to develop and implement certain policies and
925 procedures; creating s. 400.9976, F.S.; providing
926 licensee requirements relating to medication
927 practices; creating s. 400.9977, F.S.; providing
928 requirements for the screening of potential employees
929 and monitoring of employees for the protection of
930 clients; requiring licensees to implement certain
931 procedures; creating s. 400.9978, F.S.; providing
932 requirements for the use of physical restraints and
933 chemical restraint medication on clients; creating s.
934 400.9979, F.S.; providing background screening
935 requirements; requiring the licensee to maintain
936 certain personnel records; providing administrative
937 responsibilities for licensees; providing
938 recordkeeping requirements; creating s. 400.9980,
939 F.S.; providing requirements relating to property and
940 personal affairs of clients; providing requirements



791768

941 for a licensee with respect to obtaining surety bonds;
942 providing recordkeeping requirements relating to the
943 safekeeping of personal effects; providing
944 requirements for trust funds received by licensee and
945 credited to the client; providing a penalty for
946 certain misuse of a resident's personal needs
947 allowance; providing criminal penalties for
948 violations; providing for the disposition of property
949 in the event of the death of a client; authorizing the
950 Agency for Health Care Administration to adopt rules;
951 creating s. 400.9981, F.S.; authorizing the agency to
952 adopt and enforce certain rules; creating s. 400.9982,
953 F.S.; providing procedures relating to violations and
954 penalties; providing administrative fines for
955 specified classes of violations; creating s. 400.9983,
956 F.S.; authorizing the agency to apply certain
957 provisions with regard to receivership proceedings;
958 creating s. 400.9984, F.S.; requiring the Agency for
959 Health Care Administration, the Department of Health,
960 the Agency for Persons with Disabilities, and the
961 Department of Children and Families to develop
962 electronic systems for certain purposes; repealing s.
963 400.805, F.S., relating to transitional living
964 facilities; providing that every transitional living
965 facilities licensed under s. 400.805, F.S., on or
966 before a specified date is licensed under the
967 provisions of the act; amending s. 381.745, F.S.;
968 revising a definition; amending s. 381.75, F.S.;
969 revising the duties of the Department of Health as



791768

970 they relate to transitional living facilities;
971 amending s. 381.78, F.S.; conforming provisions to
972 changes made by the act; providing an effective date.