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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2013	.	
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The Committee on Health Policy (Garcia) 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



962202

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. It is also the policy of this state that
24 the use of restraints and seclusion on clients is justified only
25 as an emergency safety measure to be used in response to danger
26 to the client or others. It is, therefore, the intent of the
27 Legislature to achieve an ongoing reduction in the use of
28 restraints and seclusion in programs and facilities that serve
29 persons who have brain injury or spinal cord injuries.

30 Section 3. Section 400.9971, Florida Statutes, is created
31 to read:

32 400.9971 Definitions.—As used in this part, the term:

33 (1) "Agency" means the Agency for Health Care
34 Administration.

35 (2) "Chemical restraint" means a pharmacologic drug that
36 physically limits, restricts, or deprives an individual of
37 movement or mobility, is used for client protection or safety,
38 and is not required for the treatment of medical conditions or
39 symptoms.

40 (3) "Client's representative" means the parent of a child
41 client or the client's guardian, designated representative or



962202

42 designee, surrogate, or attorney in fact.

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

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

56 (6) "Seclusion" means the physical segregation of a person
57 in any fashion or the involuntary isolation of a person in a
58 room or area from which the person is prevented from leaving.
59 The prevention may be by physical barrier or by a staff member
60 who is acting in a manner, or who is physically situated, so as
61 to prevent the person from leaving the room or area. For
62 purposes of this chapter, the term does not mean isolation due
63 to a person's medical condition or symptoms.

64 (7) "Transitional living facility" means a site where
65 specialized health care services are provided, including, but
66 not limited to, rehabilitative services, behavior modification,
67 community reentry training, aids for independent living, and
68 counseling to individuals who have brain injuries or spinal cord
69 injuries. The term does not require a provider that is licensed
70 by the agency to obtain a separate transitional living facility



962202

71 license to serve persons who have brain injuries or spinal cord
72 injuries as long as the services provided are within the scope
73 of the provider's license.

74 Section 4. Section 400.9972, Florida Statutes, is created
75 to read:

76 400.9972 License required; fee; application.-

77 (1) The requirements of part II of chapter 408 apply to the
78 provision of services that require licensure pursuant to this
79 part and part II of chapter 408 and to entities licensed by or
80 applying for such licensure from the agency pursuant to this
81 part. A license issued by the agency is required for the
82 operation of a transitional living facility in this state.

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

88 (3) Each applicant for licensure must provide the
89 following:

90 (a) The location of the facility for which a license is
91 sought and documentation, signed by the appropriate local
92 government official, which states that the applicant has met
93 local zoning requirements.

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

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

98 (d) Proof that the facility has received a satisfactory
99 firesafety inspection.



962202

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

102
103 The applicant's proposed facility must attain and continuously
104 maintain accreditation by an accrediting organization
105 specializing in evaluating rehabilitation facilities whose
106 standards incorporate comparable licensure regulations required
107 by the state. An applicant for licensure as a transitional
108 living facility must acquire accreditation within 12 months
109 after the issuance of an initial license. The agency shall
110 accept the accreditation survey report of the accrediting
111 organization in lieu of conducting a licensure inspection if the
112 standards included in the survey report are determined by the
113 agency to document that the facility is in substantial
114 compliance with state licensure requirements. The applicant
115 shall submit to the agency within 10 days after receipt a copy
116 of any accreditation survey report and evidence of the
117 accreditation decision subsequent to a survey by the accrediting
118 organization on the facility. This part does not preclude the
119 agency from conducting periodic inspections of a transitional
120 living facility to ensure compliance with all licensure
121 requirements, and as it deems necessary to carry out the
122 functions of the agency. An inspection may be conducted to
123 ensure compliance with licensure requirements of this part, to
124 validate the inspection process of accrediting organizations, to
125 respond to licensure complaints, or to protect the public health
126 and safety.

127 Section 5. Section 400.9973, Florida Statutes, is created
128 to read:



962202

129 400.9973 Client admission, transfer, and discharge.-

130 (1) Each transitional living facility must have written
131 policies and procedures governing the admission, transfer, and
132 discharge of clients.

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

136 (3) A client admitted to a transitional living facility
137 must have a brain or spinal cord injury, such as a lesion to the
138 spinal cord or cauda equina syndrome, with evidence of
139 significant involvement of two of the following deficits or
140 dysfunctions:

141 (a) A motor deficit.

142 (b) A sensory deficit.

143 (c) Bowel and bladder dysfunction.

144 (d) An acquired internal or external injury to the skull,
145 the brain, or the brain's covering, whether caused by a
146 traumatic or nontraumatic event, which produces an altered state
147 of consciousness or an anatomic motor, sensory, cognitive, or
148 behavioral deficit.

149 (4) A client whose medical condition and diagnosis does not
150 positively identify a cause of the client's condition, whose
151 symptoms are inconsistent with the known cause of injury, or
152 whose recovery is inconsistent with the known medical condition
153 may be admitted to a transitional living facility for evaluation
154 for a period not to exceed 90 days.

155 (5) A client admitted to a transitional living facility
156 must be admitted upon prescription by a licensed physician and
157 must remain under the care of a licensed physician for the



962202

158 duration of the client's stay in the facility.
159 (6) A transitional living facility may not admit a client
160 whose primary admitting diagnosis is mental illness or an
161 intellectual or a developmental disability.
162 (7) An individual may not be admitted to a transitional
163 living facility if the individual:
164 (a) Presents significant risk of infection to other clients
165 or personnel. A health care practitioner must provide
166 documentation that the individual is free of apparent signs and
167 symptoms of communicable disease;
168 (b) Is a danger to self or others as determined by a
169 physician or mental health practitioner licensed under chapter
170 490 or chapter 491, unless the facility provides adequate
171 staffing and support to ensure patient safety;
172 (c) Is bedridden; or
173 (d) Requires 24-hour nursing supervision.
174 (8) If the client meets the admission criteria, the medical
175 or nursing director of the facility must complete an initial
176 evaluation of the client's functional skills, behavioral status,
177 cognitive status, educational or vocational potential, medical
178 status, psychosocial status, sensorimotor capacity, and other
179 related skills and abilities within the first 72 hours after the
180 client's admission to the facility. An initial comprehensive
181 treatment plan that delineates services to be provided and
182 appropriate sources for such services must be implemented within
183 the first 4 days after admission.
184 (9) Each transitional living facility shall develop a
185 discharge plan for each client before or upon admission to the
186 facility. The discharge plan must identify the intended



962202

187 discharge site and possible alternative discharge sites. For
188 each discharge site identified, the discharge plan must identify
189 the skills, behaviors, and other conditions that the client must
190 achieve to be appropriate for discharge. Discharge plans must be
191 reviewed and updated as necessary, but no less often than once
192 monthly.

193 (10) As soon as practicable, a transitional living facility
194 shall discharge a client when he or she no longer requires any
195 of the specialized services described in s. 400.9971(7) or is
196 not making measurable progress in accordance with his or her
197 comprehensive treatment plan, or if the transitional living
198 facility is no longer the most appropriate, least restrictive
199 treatment option.

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

205 Section 6. Section 400.9974, Florida Statutes, is created
206 to read:

207 400.9974 Client comprehensive treatment plans; client
208 services.—

209 (1) Each transitional living facility shall develop a
210 comprehensive treatment plan for each client as soon as
211 possible, but no later than 30 days following development of the
212 initial comprehensive treatment plan. Comprehensive treatment
213 plans must be reviewed and updated if the client fails to meet
214 projected improvements in the plan or if a significant change in
215 the client's condition occurs. Comprehensive treatment plans



962202

216 must be reviewed and updated at least once monthly.
217 Comprehensive treatment plans must be developed by an
218 interdisciplinary team consisting of the case manager, the
219 program director, the nurse, and appropriate therapists. The
220 client or, if appropriate, the client's representative must be
221 included in developing the comprehensive treatment plan.

222 (2) The comprehensive treatment plan must include the
223 following:

224 (a) The physician's orders and the client's diagnosis,
225 medical history, physical examination, and rehabilitative or
226 restorative needs.

227 (b) A preliminary nursing evaluation with physician's
228 orders for immediate care, completed on admission.

229 (c) A comprehensive, accurate, reproducible, and
230 standardized assessment of the client's functional capability;
231 the treatments designed to achieve skills, behaviors, and other
232 conditions necessary to return to the community; and specific
233 measurable goals.

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

236 (3) The client or, if appropriate, the client's
237 representative must consent to the continued treatment at the
238 transitional living facility. Consent may be for a period of up
239 to 3 months. If such consent is not given, the transitional
240 living facility shall discharge the client as soon as
241 practicable.

242 (4) Each client must receive the professional program
243 services needed to implement the client's comprehensive
244 treatment plan.



962202

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

249 (6) Each client must receive a continuous treatment program
250 that includes appropriate, consistent implementation of a
251 program of specialized and general training, treatment, health
252 services, and related services which is directed toward:

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

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

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

260 Section 7. Section 400.9975, Florida Statutes, is created
261 to read:

262 400.9975 Licensee responsibilities.—

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

264 (a) Lives in a safe environment free from abuse, neglect,
265 and exploitation.

266 (b) Is treated with consideration and respect and with due
267 recognition of personal dignity, individuality, and the need for
268 privacy.

269 (c) Retains and uses his or her own clothes and other
270 personal property in his or her immediate living quarters, so as
271 to maintain individuality and personal dignity, except when the
272 licensee can demonstrate that such retention and use would be
273 unsafe, impractical, or an infringement upon the rights of other



962202

274 clients.

275 (d) Has unrestricted private communication, including
276 receiving and sending unopened correspondence, access to a
277 telephone, and visiting with any person of his or her choice.
278 Upon request, the licensee shall make provisions to modify
279 visiting hours for caregivers and guests. The facility shall
280 restrict communication in accordance with any court order or
281 written instruction of a client's representative. Any
282 restriction on a client's communication for therapeutic reasons
283 shall be documented and reviewed at least weekly and shall be
284 removed as soon as it is no longer clinically indicated. The
285 basis for the restriction shall be explained to the client and,
286 if applicable, the client's representative. The client shall
287 nonetheless retain the right to call the abuse hotline, the
288 agency, and Disability Rights Florida at any and all times.

289 (e) Has the opportunity to participate in and benefits from
290 community services and activities to achieve the highest
291 possible level of independence, autonomy, and interaction within
292 the community.

293 (f) Has the opportunity to manage his or her financial
294 affairs unless the client or, if applicable, the client's
295 representative authorizes the administrator of the facility to
296 provide safekeeping for funds as provided in this part.

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

300 (h) Has the opportunity to exercise civil and religious
301 liberties, including the right to independent personal
302 decisions. No religious belief or practice, including attendance



962202

303 at religious services, shall be imposed upon any client.

304 (i) Has access to adequate and appropriate health care
305 consistent with established and recognized standards within the
306 community.

307 (j) Has the ability to present grievances and recommend
308 changes in policies, procedures, and services to the staff of
309 the licensee, governing officials, or any other person without
310 restraint, interference, coercion, discrimination, or reprisal.
311 Each licensee shall establish a grievance procedure to
312 facilitate a client's ability to present grievances, including a
313 system for investigating, tracking, managing, and responding to
314 complaints by persons receiving services or individuals acting
315 on their behalf, and an appeals process. This process must
316 include access to Disability Rights Florida and other advocates
317 and the right to be a member of, be active in, and associate
318 with advocacy or special interest groups.

319 (2) The licensee shall:

320 (a) Promote participation of each client's representative
321 in the process of providing treatment to the client unless the
322 representative's participation is unobtainable or inappropriate.

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

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

331 (d) Promote leave from the facility for visits, trips, or



962202

332 vacations.

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

337 (3) The administrator of a facility shall ensure that a
338 written notice of licensee responsibilities is posted in a
339 prominent place in each building where clients reside and read
340 or explained to clients who cannot read. This notice shall
341 include the statewide toll-free telephone number for reporting
342 complaints to the agency, must be provided to clients in a
343 manner that is clearly legible, and must include the words: "To
344 report a complaint regarding the services you receive, please
345 call toll-free ...[telephone number]... or Disability Rights
346 Florida ...[telephone number]..."; and the statewide toll-free
347 telephone number for the central abuse hotline must be provided
348 to clients in a manner that is clearly legible and must include
349 the words: "To report abuse, neglect or exploitation, please
350 call toll-free ...[telephone number where complaints may be
351 lodged]...." The licensee must ensure a client's access to a
352 telephone, where telephone numbers required in this subsection
353 are readily available to call the agency, central abuse hotline,
354 or Disability Rights Florida.

355 (4) A licensee or employee of a facility may not serve
356 notice upon a client to leave the premises or take any other
357 retaliatory action against any person solely due to the
358 following:

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



962202

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

363 (5) Before or at the time of admission, the client and the
364 client's representative shall be provided with a copy of the
365 licensee's responsibilities as provided in this section,
366 including grievance procedures and the telephone numbers
367 provided in this section.

368 (6) The licensee must develop and implement policies and
369 procedures governing the release of any client information,
370 including consent necessary from the client or the client's
371 representative.

372 Section 8. Section 400.9976, Florida Statutes, is created
373 to read:

374 400.9976 Medication practices.—

375 (1) An individual medication administration record must be
376 maintained for each client. Each dose of medication, including a
377 self-administered dose, shall be properly recorded in the
378 client's record. Each client who self-administers medication
379 shall be given a pill organizer. Medication must be placed in
380 the pill organizer by a nurse. A nurse shall document the date
381 and time medication is placed into each client's pill organizer.
382 All medications must be administered in compliance with the
383 physician's orders.

384 (2) If the interdisciplinary team determines that self-
385 administration of medications is an appropriate objective, and
386 if the physician does not specify otherwise, a client must be
387 taught to self-administer his or her medication without a staff
388 person. This includes all forms of administration, including
389 orally, via injection, and via suppository. The client's



962202

390 physician must be informed of the interdisciplinary team's
391 decision that self-administration of medications is an objective
392 for the client. A client may not self-administer medication
393 until he or she demonstrates the competency to take the correct
394 medication in the correct dosage at the correct time, to respond
395 to missed doses, and to contact an appropriate person with
396 questions.

397 (3) Medication administration discrepancies and adverse
398 drug reactions must be recorded and reported immediately to a
399 physician.

400 Section 9. Section 400.9977, Florida Statutes, is created
401 to read:

402 400.9977 Protection from abuse, neglect, mistreatment, and
403 exploitation.—The licensee must develop and implement policies
404 and procedures for the screening and training of employees, the
405 protection of clients, and the prevention, identification,
406 investigation, and reporting of abuse, neglect, and
407 exploitation. This includes the licensee's identification of
408 clients whose personal histories render them at risk for abusing
409 other clients, development of intervention strategies to prevent
410 occurrences, monitoring for changes that would trigger abusive
411 behavior, and reassessment of the interventions on a regular
412 basis. A licensee shall implement procedures to:

413 (1) Screen potential employees for a history of abuse,
414 neglect, or mistreatment of clients. The screening shall include
415 an attempt to obtain information from previous employers and
416 current employers and verification with the appropriate
417 licensing boards.

418 (2) Train employees, through orientation and ongoing



962202

419 sessions, on issues related to abuse prohibition practices,
420 including identification of abuse, neglect, mistreatment, and
421 exploitation, appropriate interventions to deal with aggressive
422 or catastrophic reactions of clients, the process to report
423 allegations without fear of reprisal, and recognition of signs
424 of frustration and stress that may lead to abuse.

425 (3) Provide clients, families, and staff with information
426 on how and to whom they may report concerns, incidents, and
427 grievances without the fear of retribution and provide feedback
428 regarding the concerns that have been expressed. A licensee must
429 identify, correct, and intervene in situations in which abuse,
430 neglect, mistreatment, or exploitation is likely to occur,
431 including:

432 (a) Evaluating the physical environment of the facility to
433 identify characteristics that may make abuse or neglect more
434 likely to occur, such as secluded areas.

435 (b) Providing sufficient staff on each shift to meet the
436 needs of the clients, and ensuring that the staff assigned have
437 knowledge of the individual clients' care needs. The licensee
438 shall identify inappropriate behaviors of its staff, such as
439 using derogatory language, rough handling, ignoring clients
440 while giving care, and directing clients who need toileting
441 assistance to urinate or defecate in their beds.

442 (c) Assessing, planning care for, and monitoring clients
443 with needs and behaviors that might lead to conflict or neglect,
444 such as clients with a history of aggressive behaviors, clients
445 who have behaviors such as entering other clients' rooms,
446 clients with self-injurious behaviors, clients with
447 communication disorders, and clients who require heavy nursing



962202

448 care or are totally dependent on staff.

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

452 (5) Investigate different types of incidents, identify the
453 staff member responsible for the initial reporting, investigate
454 alleged violations, and report results to the proper
455 authorities. The licensee must analyze the occurrences to
456 determine what changes are needed, if any, to policies and
457 procedures to prevent further occurrences and to take all
458 necessary corrective action depending on the results of the
459 investigation.

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

461 (7) Report all alleged violations and all substantiated
462 incidents, as required under chapters 39 and 415, to the
463 licensing authorities and all other agencies as required and to
464 report any knowledge it has of any actions by a court of law
465 that would indicate an employee is unfit for service.

466 Section 10. Section 400.9978, Florida Statutes, is created
467 to read:

468 400.9978 Restraints and seclusion; client safety.—

469 (1) Each facility shall provide a therapeutic milieu that
470 supports a culture of individual empowerment and responsibility.
471 The health and safety of the client shall be the primary concern
472 at all times.

473 (2) The use of physical restraints must be ordered and
474 documented by a physician and must be consistent with policies
475 and procedures adopted by the facility. The client or, if
476 applicable, the client's representative must be informed of the



962202

477 facility's physical restraint policies and procedures at the
478 time of the client's admission.

479 (3) The use of chemical restraints is limited to prescribed
480 dosages of medications as ordered by a physician and must be
481 consistent with the client's diagnosis and the policies and
482 procedures adopted by the facility. The client and, if
483 applicable, the client's representative must be informed of the
484 facility's chemical restraint policies and procedures at the
485 time of the client's admission.

486 (4) Based on a physician's assessment, if a client exhibits
487 symptoms that present an immediate risk of injury or death to
488 self or others, a physician may issue an emergency treatment
489 order to immediately administer rapid response psychotropic
490 medications or other chemical restraints. Each emergency
491 treatment order must be documented and maintained in the
492 client's record.

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

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

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

502 (a) The continued need for the medication.

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

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



962202

506 (6) The licensee shall ensure that clients are free from
507 unnecessary drugs and physical restraints and are provided
508 treatment to reduce dependency on drugs and physical restraints.

509 (7) The licensee may use physical restraints and seclusion
510 only as authorized by the facility's written physical restraint
511 and seclusion policies, which must be in compliance with this
512 section and applicable rules.

513 (8) Interventions to manage dangerous client behavior must
514 be employed with sufficient safeguards and supervision to ensure
515 that the safety, welfare, and civil and human rights of each
516 client are adequately protected.

517 (9) A facility shall notify the parent or guardian of a
518 client each time restraint or seclusion is used. Such
519 notification must be within 24 hours from the time the restraint
520 or seclusion occurs. Reasonable efforts must be taken to notify
521 the parent or guardian by telephone or e-mail, or both, and
522 these efforts must be documented.

523 (10) The agency may adopt by rule standards and procedures
524 relating to the use of restraints, restraint positioning,
525 seclusion, and emergency treatment orders for psychotropic
526 medications, restraint, and seclusion. These rules must include
527 duration of restraint use, staff training, client observation
528 during restraint, and documentation and reporting standards.

529 Section 11. Section 400.9979, Florida Statutes, is created
530 to read:

531 400.9979 Background screening; administration and
532 management.—

533 (1) The agency shall require level 2 background screening
534 for personnel as required in s. 408.809(1)(e) pursuant to



962202

535 chapter 435 and s. 408.809.

536 (2) The licensee shall maintain personnel records for each
537 staff member which contain, at a minimum, documentation of
538 background screening, if applicable, a job description,
539 documentation of compliance with all training requirements of
540 this part or applicable rule, the employment application,
541 references, a copy of all job performance evaluations, and, for
542 each staff member who performs services for which licensure or
543 certification is required, a copy of all licenses or
544 certification held by the staff member.

545 (3) The licensee must:

546 (a) Develop and implement infection control policies and
547 procedures and include such policies and procedures in the
548 licensee's policy manual.

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

550 (c) Designate one person as an administrator who is
551 responsible and accountable for the overall management of the
552 facility.

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

556 (e) Designate in writing a program director who is
557 responsible for supervising the therapeutic and behavioral
558 staff, determining the levels of supervision, and determining
559 room placement for each client.

560 (f) Designate in writing a person to be responsible when
561 the program director is absent from the facility for more than
562 24 hours.

563 (g) Obtain approval of the comprehensive emergency



962202

564 management plan, pursuant to s. 400.9981(2)(e), from the local
565 emergency management agency. Pending the approval of the plan,
566 the local emergency management agency shall ensure that the
567 following agencies, at a minimum, are given the opportunity to
568 review the plan: the Department of Health, the Agency for Health
569 Care Administration, and the Division of Emergency Management.
570 Appropriate volunteer organizations must also be given the
571 opportunity to review the plan. The local emergency management
572 agency shall complete its review within 60 days and either
573 approve the plan or advise the licensee of necessary revisions.

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

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

581 2. A record of all accidents or unusual incidents involving
582 any client or staff member that caused, or had the potential to
583 cause, injury or harm to any person or property within the
584 facility. Such records must contain a clear description of each
585 accident or incident, the names of the persons involved, a
586 description of all medical or other services provided to these
587 persons specifying who provided such services, and the steps
588 taken to prevent recurrence of such accidents or incidents.

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

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



962202

593 Section 12. Section 400.9980, Florida Statutes, is created
594 to read:

595 400.9980 Property and personal affairs of clients.—

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

601 (2) The admission of a client to a facility and his or her
602 presence therein shall not confer on a licensee, administrator,
603 employee, or representative thereof any authority to manage,
604 use, or dispose of any property of the client, nor shall such
605 admission or presence confer on any of such persons any
606 authority or responsibility for the personal affairs of the
607 client except that which may be necessary for the safe
608 management of the facility or for the safety of the client.

609 (3) A licensee, administrator, employee, or representative
610 thereof may:

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

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

619 (c) Act as the power of attorney for a client if the
620 licensee has filed a surety bond with the agency in an amount
621 equal to twice the average monthly income of the client, plus



962202

622 the value of any client's property under the control of the
623 attorney in fact.

624
625 The bond under paragraph (b) or paragraph (c) shall be executed
626 by the licensee as principal and a licensed surety company. The
627 bond shall be conditioned upon the faithful compliance of the
628 licensee with the requirements of licensure and shall be payable
629 to the agency for the benefit of any client who suffers a
630 financial loss as a result of the misuse or misappropriation of
631 funds held pursuant to this subsection. Any surety company that
632 cancels or does not renew the bond of any licensee shall notify
633 the agency in writing not less than 30 days in advance of such
634 action, giving the reason for the cancellation or nonrenewal.
635 Any licensee, administrator, employee, or representative thereof
636 who is granted power of attorney for any client of the facility
637 shall, on a monthly basis, notify the client in writing of any
638 transaction made on behalf of the client pursuant to this
639 subsection, and a copy of such notification given to the client
640 shall be retained in each client's file and available for agency
641 inspection.

642 (4) A licensee, upon mutual consent with the client, shall
643 provide for the safekeeping in the facility of the client's
644 personal effects of a value not in excess of \$1,000 and the
645 client's funds not in excess of \$500 cash and shall keep
646 complete and accurate records of all such funds and personal
647 effects received. If a client is absent from a facility for 24
648 hours or more, the licensee may provide for the safekeeping of
649 the client's personal effects of a value in excess of \$1,000.

650 (5) Any funds or other property belonging to or due to a



962202

651 client or expendable for his or her account that is received by
652 licensee shall be trust funds and shall be kept separate from
653 the funds and property of the licensee and other clients or
654 shall be specifically credited to such client. Such trust funds
655 shall be used or otherwise expended only for the account of the
656 client. At least once every month, unless upon order of a court
657 of competent jurisdiction, the licensee shall furnish the client
658 and the client's representative a complete and verified
659 statement of all funds and other property to which this
660 subsection applies, detailing the amount and items received,
661 together with their sources and disposition. In any event, the
662 licensee shall furnish such statement annually and upon the
663 discharge or transfer of a client. Any governmental agency or
664 private charitable agency contributing funds or other property
665 to the account of a client shall also be entitled to receive
666 such statement monthly and upon the discharge or transfer of the
667 client.

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

670 1. Intentionally withholds a client's personal funds,
671 personal property, or personal needs allowance, or who demands,
672 beneficially receives, or contracts for payment of all or any
673 part of a client's personal property or personal needs allowance
674 in satisfaction of the facility rate for supplies and services;
675 or

676 2. Borrows from or pledges any personal funds of a client,
677 other than the amount agreed to by written contract under s.
678 429.24,
679



962202

680 commits a misdemeanor of the first degree, punishable as
681 provided in s. 775.082 or s. 775.083.

682 (b) Any licensee, administrator, employee, or
683 representative thereof who is granted power of attorney for any
684 client of the facility and who misuses or misappropriates funds
685 obtained through this power commits a felony of the third
686 degree, punishable as provided in s. 775.082, s. 775.083, or s.
687 775.084.

688 (7) In the event of the death of a client, a licensee shall
689 return all refunds, funds, and property held in trust to the
690 client's personal representative, if one has been appointed at
691 the time the licensee disburses such funds, or, if not, to the
692 client's spouse or adult next of kin named in a beneficiary
693 designation form provided by the licensee to the client. If the
694 client has no spouse or adult next of kin or such person cannot
695 be located, funds due the client shall be placed in an interest-
696 bearing account and all property held in trust by the licensee
697 shall be safeguarded until such time as the funds and property
698 are disbursed pursuant to the Florida Probate Code. Such funds
699 shall be kept separate from the funds and property of the
700 licensee and other clients of the facility. If the funds of the
701 deceased client are not disbursed pursuant to the Florida
702 Probate Code within 2 years after the client's death, the funds
703 shall be deposited in the Health Care Trust Fund administered by
704 the agency.

705 (8) The agency, by rule, may clarify terms and specify
706 procedures and documentation necessary to administer the
707 provisions of this section relating to the proper management of
708 clients' funds and personal property and the execution of surety



962202

709 bonds.

710 Section 13. Section 400.9981, Florida Statutes, is created
711 to read:

712 400.9981 Rules establishing standards.-

713 (1) It is the intent of the Legislature that rules
714 published and enforced pursuant to this part and part II of
715 chapter 408 include criteria to ensure reasonable and consistent
716 quality of care and client safety. Rules should make reasonable
717 efforts to accommodate the needs and preferences of clients to
718 enhance the quality of life in transitional living facilities.

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

722 (a) The location of transitional living facilities.

723 (b) The number of qualifications of all personnel,
724 including management, medical, nursing, and other professional
725 personnel and nursing assistants and support personnel having
726 responsibility for any part of the care given to clients. The
727 licensee must have enough qualified professional staff available
728 to carry out and monitor the various professional interventions
729 in accordance with the stated goals and objectives of each
730 comprehensive treatment plan.

731 (c) Requirements for personnel procedures, reporting
732 procedures, and documentation necessary to implement this part.

733 (d) Services provided to clients of transitional living
734 facilities.

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



962202

738 plan components that address emergency evacuation
739 transportation; adequate sheltering arrangements; postdisaster
740 activities, including provision of emergency power, food, and
741 water; postdisaster transportation; supplies; staffing;
742 emergency equipment; individual identification of clients and
743 transfer of records; communication with families; and responses
744 to family inquiries.

745 Section 14. Section 400.9982, Florida Statutes, is created
746 to read:

747 400.9982 Violations; penalties.-

748 (1) Each violation of this part and rules adopted pursuant
749 thereto shall be classified according to the nature of the
750 violation and the gravity of its probable effect on facility
751 clients. The agency shall indicate the classification on the
752 written notice of the violation as follows:

753 (a) Class "I" violations are defined in s. 408.813. The
754 agency shall issue a citation regardless of correction and
755 impose an administrative fine of \$5,000 for an isolated
756 violation, \$7,500 for a patterned violation, and \$10,000 for a
757 widespread violation. Violations may be identified and a fine
758 must be levied notwithstanding the correction of the deficiency
759 giving rise to the violation.

760 (b) Class "II" violations are defined in s. 408.813. The
761 agency shall impose an administrative fine of \$1,000 for an
762 isolated violation, \$2,500 for a patterned violation, and \$5,000
763 for a widespread violation. A fine must be levied
764 notwithstanding the correction of the deficiency giving rise to
765 the violation.

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



962202

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

772 (d) Class "IV" violations are defined in s. 408.813. The
773 agency shall impose an administrative fine for a cited class IV
774 violation in an amount not less than \$100 and not exceeding \$200
775 for each violation. If a deficiency giving rise to a class "IV"
776 violation is corrected within the time specified by the agency,
777 a fine may not be imposed.

778 Section 15. Section 400.9983, Florida Statutes, is created
779 to read:

780 400.9983 Receivership proceedings.—The agency may apply s.
781 429.22 with regard to receivership proceedings for transitional
782 living facilities.

783 Section 16. Section 400.9984, Florida Statutes, is created
784 to read:

785 400.9984 Interagency communication.—The agency, the
786 department, the Agency for Persons with Disabilities, and the
787 Department of Children and Families shall develop electronic
788 systems to ensure that relevant information pertaining to the
789 regulation of transitional living facilities and clients is
790 timely and effectively communicated among agencies in order to
791 facilitate the protection of clients. Electronic sharing of
792 information shall include, at a minimum, a brain and spinal cord
793 injury registry and a client abuse registry.

794 Section 17. Section 400.805, Florida Statutes, is repealed.
795 Every transitional living facility licensed under s. 400.805 on



962202

796 or before July 1, 2013, shall be licensed under the provisions
797 of this act.

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

800 381.745 Definitions; ss. 381.739-381.79.—As used in ss.
801 381.739-381.79, the term:

802 (9) “Transitional living facility,” for the purpose of this
803 part, means a state-approved facility, as defined and licensed
804 under chapter 400 ~~or chapter 429, or a facility approved by the~~
805 ~~brain and spinal cord injury program in accordance with this~~
806 ~~chapter.~~

807 Section 19. Section 381.75, Florida Statutes, is amended to
808 read:

809 381.75 Duties and responsibilities of the department, ~~of~~
810 ~~transitional living facilities, and of residents.~~—Consistent
811 with the mandate of s. 381.7395, the department shall develop
812 and administer a multilevel treatment program for individuals
813 who sustain brain or spinal cord injuries and who are referred
814 to the brain and spinal cord injury program.

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

820 (2) The department shall refer individuals who have brain
821 or spinal cord injuries to other state agencies to assure that
822 rehabilitative services, if desired, are obtained by that
823 individual.

824 (3) The department, in consultation with emergency medical



962202

825 service, shall develop standards for an emergency medical
826 evacuation system that will ensure that all individuals who
827 sustain traumatic brain or spinal cord injuries are transported
828 to a department-approved trauma center that meets the standards
829 and criteria established by the emergency medical service and
830 the acute-care standards of the brain and spinal cord injury
831 program.

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

835 (5) The department shall determine the appropriate number
836 of designated acute-care facilities, inpatient rehabilitation
837 centers, and outpatient rehabilitation centers, needed based on
838 incidence, volume of admissions, and other appropriate criteria.

839 (6) The department shall develop standards for designation
840 of transitional living facilities to provide transitional living
841 services for individuals who participate in the brain and spinal
842 cord injury program ~~the opportunity to adjust to their~~
843 ~~disabilities and to develop physical and functional skills in a~~
844 ~~supported living environment.~~

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

849 ~~(b) The goal of a transitional living program for~~
850 ~~individuals who have brain or spinal cord injuries is to assist~~
851 ~~each individual who has such a disability to achieve a higher~~
852 ~~level of independent functioning and to enable that person to~~
853 ~~reenter the community. The program shall be focused on preparing~~



962202

854 ~~participants to return to community living.~~

855 ~~(c) A transitional living facility for an individual who~~
856 ~~has a brain or spinal cord injury shall provide to such~~
857 ~~individual, in a residential setting, a goal-oriented treatment~~
858 ~~program designed to improve the individual's physical,~~
859 ~~cognitive, communicative, behavioral, psychological, and social~~
860 ~~functioning, as well as to provide necessary support and~~
861 ~~supervision. A transitional living facility shall offer at least~~
862 ~~the following therapies: physical, occupational, speech,~~
863 ~~neuropsychology, independent living skills training, behavior~~
864 ~~analysis for programs serving brain-injured individuals, health~~
865 ~~education, and recreation.~~

866 ~~(d) All residents shall use the transitional living~~
867 ~~facility as a temporary measure and not as a permanent home or~~
868 ~~domicile. The transitional living facility shall develop an~~
869 ~~initial treatment plan for each resident within 3 days after the~~
870 ~~resident's admission. The transitional living facility shall~~
871 ~~develop a comprehensive plan of treatment and a discharge plan~~
872 ~~for each resident as soon as practical, but no later than 30~~
873 ~~days after the resident's admission. Each comprehensive~~
874 ~~treatment plan and discharge plan must be reviewed and updated~~
875 ~~as necessary, but no less often than quarterly. This subsection~~
876 ~~does not require the discharge of an individual who continues to~~
877 ~~require any of the specialized services described in paragraph~~
878 ~~(c) or who is making measurable progress in accordance with that~~
879 ~~individual's comprehensive treatment plan. The transitional~~
880 ~~living facility shall discharge any individual who has an~~
881 ~~appropriate discharge site and who has achieved the goals of his~~
882 ~~or her discharge plan or who is no longer making progress toward~~



962202

883 ~~the goals established in the comprehensive treatment plan and~~
884 ~~the discharge plan. The discharge location must be the least~~
885 ~~restrictive environment in which an individual's health, well-~~
886 ~~being, and safety is preserved.~~

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

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

892 381.78 Advisory council on brain and spinal cord injuries.-

893 (4) The council shall:

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

897 ~~(b) Annually appoint a five-member committee composed of~~
898 ~~one individual who has a brain injury or has a family member~~
899 ~~with a brain injury, one individual who has a spinal cord injury~~
900 ~~or has a family member with a spinal cord injury, and three~~
901 ~~members who shall be chosen from among these representative~~
902 ~~groups: physicians, other allied health professionals,~~
903 ~~administrators of brain and spinal cord injury programs, and~~
904 ~~representatives from support groups with expertise in areas~~
905 ~~related to the rehabilitation of individuals who have brain or~~
906 ~~spinal cord injuries, except that one and only one member of the~~
907 ~~committee shall be an administrator of a transitional living~~
908 ~~facility. Membership on the council is not a prerequisite for~~
909 ~~membership on this committee.~~

910 1. ~~The committee shall perform onsite visits to those~~
911 ~~transitional living facilities identified by the Agency for~~



962202

912 ~~Health Care Administration as being in possible violation of the~~
913 ~~statutes and rules regulating such facilities. The committee~~
914 ~~members have the same rights of entry and inspection granted~~
915 ~~under s. 400.805(4) to designated representatives of the agency.~~

916 ~~2. Factual findings of the committee resulting from an~~
917 ~~onsite investigation of a facility pursuant to subparagraph 1.~~
918 ~~shall be adopted by the agency in developing its administrative~~
919 ~~response regarding enforcement of statutes and rules regulating~~
920 ~~the operation of the facility.~~

921 ~~3. Onsite investigations by the committee shall be funded~~
922 ~~by the Health Care Trust Fund.~~

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

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

929 Section 21. Subsection (21) of section 408.802, Florida
930 Statutes, is amended to read:

931 408.802 Applicability.—The provisions of this part apply to
932 the provision of services that require licensure as defined in
933 this part and to the following entities licensed, registered, or
934 certified by the agency, as described in chapters 112, 383, 390,
935 394, 395, 400, 429, 440, 483, and 765:

936 (21) Transitional living facilities, as provided under part
937 XI ~~¶~~ of chapter 400.

938 Section 22. Subsection (20) of section 408.820, Florida
939 Statutes, is amended to read:

940 408.820 Exemptions.—Except as prescribed in authorizing



962202

941 statutes, the following exemptions shall apply to specified
942 requirements of this part:

943 (20) Transitional living facilities, as provided under part
944 XI ~~¶~~ of chapter 400, are exempt from s. 408.810(10).

945 Section 23. Subsection (5) of section 400.93, Florida
946 Statutes, is amended to read:

947 400.93 Licensure required; exemptions; unlawful acts;
948 penalties.—

949 (5) The following are exempt from home medical equipment
950 provider licensure, unless they have a separate company,
951 corporation, or division that is in the business of providing
952 home medical equipment and services for sale or rent to
953 consumers at their regular or temporary place of residence
954 pursuant to the provisions of this part:

955 (a) Providers operated by the Department of Health or
956 Federal Government.

957 (b) Nursing homes licensed under part II.

958 (c) Assisted living facilities licensed under chapter 429,
959 when serving their residents.

960 (d) Home health agencies licensed under part III.

961 (e) Hospices licensed under part IV.

962 (f) Intermediate care facilities, homes for special
963 services, and transitional living facilities licensed under part
964 V.

965 (g) Transitional living facilities licensed under part XI.

966 (h) ~~(g)~~ Hospitals and ambulatory surgical centers licensed
967 under chapter 395.

968 (i) ~~(h)~~ Manufacturers and wholesale distributors when not
969 selling directly to consumers.



962202

970 (j)~~(i)~~ Licensed health care practitioners who utilize home
971 medical equipment in the course of their practice, but do not
972 sell or rent home medical equipment to their patients.

973 (k)~~(j)~~ Pharmacies licensed under chapter 465.
974 Section 24. This act shall take effect July 1, 2013.

975
976 ===== T I T L E A M E N D M E N T =====

977 And the title is amended as follows:

978 Delete everything before the enacting clause
979 and insert:

980 A bill to be entitled
981 An act relating to transitional living facilities;
982 creating part XI of ch. 400, F.S., entitled
983 "Transitional Living Facilities"; creating s.
984 400.9970, F.S.; providing legislative intent; creating
985 s. 400.9971, F.S.; providing definitions; creating s.
986 400.9972, F.S.; requiring the licensure of
987 transitional living facilities; providing fees;
988 providing license application requirements; creating
989 s. 400.9973, F.S.; providing requirements for
990 transitional living facilities relating to client
991 admission, transfer, and discharge; creating s.
992 400.9974, F.S.; requiring a comprehensive treatment
993 plan to be developed for each client; providing plan
994 requirements; creating s. 400.9975, F.S.; providing
995 licensee responsibilities; providing notice
996 requirements; prohibiting a licensee or employee of a
997 facility from serving notice upon a client to leave
998 the premises or take other retaliatory action;



962202

999 requiring the client and client's representative to be
1000 provided with certain information; requiring the
1001 licensee to develop and implement certain policies and
1002 procedures; creating s. 400.9976, F.S.; providing
1003 licensee requirements relating to medication
1004 practices; creating s. 400.9977, F.S.; providing
1005 requirements for the screening of potential employees
1006 and monitoring of employees for the protection of
1007 clients; requiring licensees to implement certain
1008 procedures; creating s. 400.9978, F.S.; requiring a
1009 facility to provide a therapeutic milieu that supports
1010 a culture of individual empowerment and
1011 responsibility; providing that the health and safety
1012 of the client is the primary concern of the facility;
1013 providing requirements and limitations for the use of
1014 physical restraints, seclusion, and chemical restraint
1015 medication on clients; requiring the Agency for Health
1016 Care Administration to adopt rules; creating s.
1017 400.9979, F.S.; providing background screening
1018 requirements; requiring the licensee to maintain
1019 certain personnel records; providing administrative
1020 responsibilities for licensees; providing
1021 recordkeeping requirements; creating s. 400.9980,
1022 F.S.; providing requirements relating to property and
1023 personal affairs of clients; providing requirements
1024 for a licensee with respect to obtaining surety bonds;
1025 providing recordkeeping requirements relating to the
1026 safekeeping of personal effects; providing
1027 requirements for trust funds received by licensee and



962202

1028 credited to the client; providing a penalty for
1029 certain misuse of a resident's personal needs
1030 allowance; providing criminal penalties for
1031 violations; providing for the disposition of property
1032 in the event of the death of a client; authorizing the
1033 Agency for Health Care Administration to adopt rules;
1034 creating s. 400.9981, F.S.; authorizing the agency to
1035 adopt and enforce certain rules; creating s. 400.9982,
1036 F.S.; providing procedures relating to violations and
1037 penalties; providing administrative fines for
1038 specified classes of violations; creating s. 400.9983,
1039 F.S.; authorizing the agency to apply certain
1040 provisions with regard to receivership proceedings;
1041 creating s. 400.9984, F.S.; requiring the Agency for
1042 Health Care Administration, the Department of Health,
1043 the Agency for Persons with Disabilities, and the
1044 Department of Children and Families to develop
1045 electronic systems for certain purposes; repealing s.
1046 400.805, F.S., relating to transitional living
1047 facilities; providing that every transitional living
1048 facilities licensed under s. 400.805, F.S., on or
1049 before a specified date is licensed under the
1050 provisions of the act; amending s. 381.745, F.S.;
1051 revising a definition; amending s. 381.75, F.S.;
1052 revising the duties of the Department of Health as
1053 they relate to transitional living facilities;
1054 amending s. 381.78, F.S.; conforming provisions to
1055 changes made by the act; amending ss. 408.802 and
1056 408.820, F.S.; conforming a provision to changes made



962202

1057 by the act; amending s. 400.93, F.S.; providing that
1058 transitional living facilities licensed under part XI
1059 of ch. 400, F.S., are exempt from home medical
1060 equipment provider licensure; providing an effective
1061 date.