

By the Committee on Children, Families, and Elder Affairs; and
Senator Garcia

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1 A bill to be entitled
2 An act relating to transitional living facilities;
3 creating part XI of ch. 400, F.S., entitled
4 "Transitional Living Facilities"; creating s.
5 400.9970, F.S.; providing legislative intent; creating
6 s. 400.9971, F.S.; providing definitions; creating s.
7 400.9972, F.S.; requiring the licensure of
8 transitional living facilities; providing fees;
9 providing license application requirements; creating
10 s. 400.9973, F.S.; providing requirements for
11 transitional living facilities relating to client
12 admission, transfer, and discharge; creating s.
13 400.9974, F.S.; requiring a comprehensive treatment
14 plan to be developed for each client; providing plan
15 requirements; creating s. 400.9975, F.S.; providing
16 licensee responsibilities; providing notice
17 requirements; prohibiting a licensee or employee of a
18 facility from serving notice upon a client to leave
19 the premises or take other retaliatory action;
20 requiring the client and client's representative to be
21 provided with certain information; requiring the
22 licensee to develop and implement certain policies and
23 procedures; creating s. 400.9976, F.S.; providing
24 licensee requirements relating to medication
25 practices; creating s. 400.9977, F.S.; providing
26 requirements for the screening of potential employees
27 and monitoring of employees for the protection of
28 clients; requiring licensees to implement certain
29 procedures; creating s. 400.9978, F.S.; providing

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30 requirements for the use of physical restraints and
31 chemical restraint medication on clients; creating s.
32 400.9979, F.S.; providing background screening
33 requirements; requiring the licensee to maintain
34 certain personnel records; providing administrative
35 responsibilities for licensees; providing
36 recordkeeping requirements; creating s. 400.9980,
37 F.S.; providing requirements relating to property and
38 personal affairs of clients; providing requirements
39 for a licensee with respect to obtaining surety bonds;
40 providing recordkeeping requirements relating to the
41 safekeeping of personal effects; providing
42 requirements for trust funds received by licensee and
43 credited to the client; providing a penalty for
44 certain misuse of a resident's personal needs
45 allowance; providing criminal penalties for
46 violations; providing for the disposition of property
47 in the event of the death of a client; authorizing the
48 Agency for Health Care Administration to adopt rules;
49 creating s. 400.9981, F.S.; authorizing the agency to
50 adopt and enforce certain rules; creating s. 400.9982,
51 F.S.; providing procedures relating to violations and
52 penalties; providing administrative fines for
53 specified classes of violations; creating s. 400.9983,
54 F.S.; authorizing the agency to apply certain
55 provisions with regard to receivership proceedings;
56 creating s. 400.9984, F.S.; requiring the Agency for
57 Health Care Administration, the Department of Health,
58 the Agency for Persons with Disabilities, and the

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59 Department of Children and Families to develop
60 electronic systems for certain purposes; repealing s.
61 400.805, F.S., relating to transitional living
62 facilities; providing that every transitional living
63 facilities licensed under s. 400.805, F.S., on or
64 before a specified date is licensed under the
65 provisions of the act; amending s. 381.745, F.S.;
66 revising a definition; amending s. 381.75, F.S.;
67 revising the duties of the Department of Health as
68 they relate to transitional living facilities;
69 amending s. 381.78, F.S.; conforming provisions to
70 changes made by the act; providing an effective date.
71

72 Be It Enacted by the Legislature of the State of Florida:
73

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

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

79 400.9970 Legislative intent.—It is the intent of the
80 Legislature to provide for the licensure of transitional living
81 facilities and require the development, establishment, and
82 enforcement of basic standards by the Agency for Health Care
83 Administration to ensure quality of care and services to clients
84 in transitional living facilities. It is the policy of the state
85 that the least restrictive appropriate available treatment be
86 used based on the individual needs and best interest of the
87 client and consistent with optimum improvement of the client's

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88 condition. The goal of a transitional living program for
89 individuals who have brain or spinal cord injuries is to assist
90 each individual who has such an injury to achieve a higher level
91 of independent functioning and to enable that individual to
92 reenter the community.

93 Section 3. Section 400.9971, Florida Statutes, is created
94 to read:

95 400.9971 Definitions.—As used in this part, the term:

96 (1) "Agency" means the Agency for Health Care
97 Administration.

98 (2) "Chemical restraint" means a pharmacologic drug that
99 physically limits, restricts, or deprives an individual of
100 movement or mobility, is used for client protection or safety,
101 and is not required for the treatment of medical conditions or
102 symptoms.

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

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

107 (5) "Licensee" means an individual issued a license by the
108 agency.

109 (6) "Physical restraint" means any manual method to
110 restrict freedom of movement of or normal access to an
111 individual's body or a physical or mechanical device, material,
112 or equipment attached or adjacent to the individual's body so
113 that he or she cannot easily remove the restraint and which
114 restricts freedom of movement of or normal access to one's body,
115 including, but not limited to, a half-bed rail, a full-bed rail,
116 a geriatric chair, and a posey restraint. The term includes any

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117 device that was not specifically manufactured as a restraint but
118 which has been altered, arranged, or otherwise used for this
119 purpose. The term does not include bandage material used for the
120 purpose of binding a wound or injury.

121 (7) "Transitional living facility" means a site where
122 specialized health care services are provided, including, but
123 not limited to, rehabilitative services, behavior modification,
124 community reentry training, aids for independent living, and
125 counseling to individuals who have brain injuries or spinal cord
126 injuries. The term does not require a provider that is licensed
127 by the agency to obtain a separate transitional living facility
128 license to serve persons who have brain injuries or spinal cord
129 injuries as long as the services provided are within the scope
130 of the provider's license.

131 Section 4. Section 400.9972, Florida Statutes, is created
132 to read:

133 400.9972 License required; fee; application.-

134 (1) The requirements of part II of chapter 408 apply to the
135 provision of services that require licensure pursuant to this
136 part and part II of chapter 408 and to entities licensed by or
137 applying for such licensure from the agency pursuant to this
138 part. A license issued by the agency is required for the
139 operation of a transitional living facility in this state.

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

145 (3) Each applicant for licensure must provide the

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146 following:

147 (a) The location of the facility for which a license is
148 sought and documentation, signed by the appropriate local
149 government official, which states that the applicant has met
150 local zoning requirements.

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

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

155 (d) Proof that the facility has received a satisfactory
156 firesafety inspection.

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

159
160 The applicant's proposed facility must attain and continuously
161 maintain accreditation by an accrediting organization
162 specializing in evaluating rehabilitation facilities whose
163 standards incorporate comparable licensure regulations required
164 by the state. An applicant for licensure as a transitional
165 living facility must acquire accreditation within 12 months
166 after the issuance of an initial license. The agency shall
167 accept the accreditation survey report of the accrediting
168 organization in lieu of conducting a licensure inspection if the
169 standards included in the survey report are determined by the
170 agency to document that the facility is in substantial
171 compliance with state licensure requirements. The applicant
172 shall submit to the agency within 10 days after receipt a copy
173 of any accreditation survey report and evidence of the
174 accreditation decision subsequent to a survey by the accrediting

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175 organization on the facility. This part does not preclude the
176 agency from conducting periodic inspections of a transitional
177 living facility to ensure compliance with all licensure
178 requirements, and as it deems necessary to carry out the
179 functions of the agency. An inspection may be conducted to
180 ensure compliance with licensure requirements of this part, to
181 validate the inspection process of accrediting organizations, to
182 respond to licensure complaints, or to protect the public health
183 and safety.

184 Section 5. Section 400.9973, Florida Statutes, is created
185 to read:

186 400.9973 Client admission, transfer, and discharge.-

187 (1) Each transitional living facility must have written
188 policies and procedures governing the admission, transfer, and
189 discharge of clients.

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

193 (3) A client admitted to a transitional living facility
194 must have a brain or spinal cord injury, such as a lesion to the
195 spinal cord or cauda equina syndrome, with evidence of
196 significant involvement of two of the following deficits or
197 dysfunctions:

198 (a) A motor deficit.

199 (b) A sensory deficit.

200 (c) Bowel and bladder dysfunction.

201 (d) An acquired internal or external injury to the skull,
202 the brain, or the brain's covering, whether caused by a
203 traumatic or nontraumatic event, which produces an altered state

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204 of consciousness or an anatomic motor, sensory, cognitive, or
205 behavioral deficit.

206 (4) A client whose medical diagnosis does not positively
207 identify a cause of the client's condition, whose symptoms are
208 inconsistent with the known cause of injury, or whose recovery
209 is inconsistent with the known medical condition may be admitted
210 to a transitional living facility for evaluation for a period
211 not to exceed 90 days.

212 (5) A client admitted to a transitional living facility
213 must be admitted upon prescription by a licensed physician and
214 must remain under the care of a licensed physician for the
215 duration of the client's stay in the facility.

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

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

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

225 (b) Is a danger to self or others as determined by a
226 physician or mental health practitioner licensed under chapter
227 490 or chapter 491, unless the facility provides adequate
228 staffing and support to ensure patient safety;

229 (c) Is bedridden; or

230 (d) Requires 24-hour nursing supervision.

231 (8) If the client meets the admission criteria, the medical
232 or nursing director of the facility must complete an initial

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233 evaluation of the client's functional skills, behavioral status,
234 cognitive status, educational or vocational potential, medical
235 status, psychosocial status, sensorimotor capacity, and other
236 related skills and abilities within the first 72 hours after the
237 client's admission to the facility. An initial comprehensive
238 treatment plan that delineates services to be provided and
239 appropriate sources for such services must be implemented within
240 the first 4 days after admission.

241 (9) Each transitional living facility shall develop a
242 discharge plan for each client before or upon admission to the
243 facility. The discharge plan must identify the intended
244 discharge site and possible alternative discharge sites. For
245 each discharge site identified, the discharge plan must identify
246 the skills, behaviors, and other conditions that the client must
247 achieve to be appropriate for discharge. Discharge plans must be
248 reviewed and updated as necessary, but no less often than once
249 monthly.

250 (10) As soon as practicable, a transitional living facility
251 shall discharge a client when he or she no longer requires any
252 of the specialized services described in s. 400.9971(7) or is
253 not making measurable progress in accordance with his or her
254 comprehensive treatment plan, or if the transitional living
255 facility is no longer the most appropriate, least restrictive
256 treatment option.

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

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262 Section 6. Section 400.9974, Florida Statutes, is created
263 to read:

264 400.9974 Client comprehensive treatment plans; client
265 services.-

266 (1) Each transitional living facility shall develop a
267 comprehensive treatment plan for each client as soon as
268 possible, but no later than 30 days following development of the
269 initial comprehensive treatment plan. Comprehensive treatment
270 plans must be reviewed and updated if the client fails to meet
271 projected improvements in the plan or if a significant change in
272 the client's condition occurs. Comprehensive treatment plans
273 must be reviewed and updated at least once monthly.
274 Comprehensive treatment plans must be developed by an
275 interdisciplinary team consisting of the case manager, the
276 program director, the nurse, and appropriate therapists. The
277 client or, if appropriate, the client's representative must be
278 included in developing the comprehensive treatment plan.

279 (2) The comprehensive treatment plan must include the
280 following:

281 (a) The physician's orders and the client's diagnosis,
282 medical history, physical examination, and rehabilitative or
283 restorative needs.

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

286 (c) A comprehensive, accurate, reproducible, and
287 standardized assessment of the client's functional capability;
288 the treatments designed to achieve skills, behaviors, and other
289 conditions necessary to return to the community; and specific
290 measurable goals.

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

293 (3) The client or, if appropriate, the client's
294 representative shall consent to the continued treatment at the
295 transitional living facility. If such consent is not given, the
296 transitional living facility shall discharge the client as soon
297 as practicable.

298 (4) Each client must receive the professional program
299 services needed to implement the client's comprehensive
300 treatment plan.

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

305 (6) Each client must receive a continuous treatment program
306 that includes appropriate, consistent implementation of a
307 program of specialized and general training, treatment, health
308 services, and related services which is directed toward:

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

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

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

316 Section 7. Section 400.9975, Florida Statutes, is created
317 to read:

318 400.9975 Licensee responsibilities.—

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

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320 (a) Lives in a safe environment free from abuse, neglect,
321 and exploitation.

322 (b) Is treated with consideration and respect and with due
323 recognition of personal dignity, individuality, and the need for
324 privacy.

325 (c) Retains and uses his or her own clothes and other
326 personal property in his or her immediate living quarters, so as
327 to maintain individuality and personal dignity, except when the
328 licensee can demonstrate that such retention and use would be
329 unsafe, impractical, or an infringement upon the rights of other
330 clients.

331 (d) Has unrestricted private communication, including
332 receiving and sending unopened correspondence, access to a
333 telephone, and visiting with any person of his or her choice.
334 Upon request, the licensee shall make provisions to modify
335 visiting hours for caregivers and guests. The facility shall
336 restrict communication in accordance with any court order or
337 written instruction of a client's representative. Any
338 restriction on a client's communication for therapeutic reasons
339 shall be documented and reviewed at least weekly and shall be
340 removed as soon as it is no longer clinically indicated. The
341 basis for the restriction shall be explained to the client and,
342 if applicable, the client's representative. The client shall
343 nonetheless retain the right to call the abuse hotline, the
344 agency, and Disability Rights Florida at any and all times.

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

348 (f) Manages his or her financial affairs unless the client

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349 or, if applicable, the client's representative authorizes the
350 administrator of the facility to provide safekeeping for funds
351 as provided in this part.

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

355 (h) Exercises civil and religious liberties, including the
356 right to independent personal decisions. No religious belief or
357 practice, including attendance at religious services, shall be
358 imposed upon any client.

359 (i) Has access to adequate and appropriate health care
360 consistent with established and recognized standards within the
361 community.

362 (j) Has the ability to present grievances and recommend
363 changes in policies, procedures, and services to the staff of
364 the licensee, governing officials, or any other person without
365 restraint, interference, coercion, discrimination, or reprisal.
366 Each licensee shall establish a grievance procedure to
367 facilitate a client's ability to present grievances, including a
368 system for investigating, tracking, managing, and responding to
369 complaints by persons receiving services or individuals acting
370 on their behalf, and an appeals process. This process must
371 include access to Disability Rights Florida and other advocates
372 and the right to be a member of, be active in, and associate
373 with advocacy or special interest groups.

374 (2) The licensee shall:

375 (a) Promote participation of each client's representative
376 in the process of providing treatment to the client unless the
377 representative's participation is unobtainable or inappropriate.

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

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

386 (d) Promote leave from the facility for visits, trips, or
387 vacations.

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

392 (3) The administrator of a facility shall ensure that a
393 written notice of licensee responsibilities is posted in a
394 prominent place in each building where clients reside and read
395 or explained to clients who cannot read. This notice shall
396 include the statewide toll-free telephone number for reporting
397 complaints to the agency, must be provided to clients in a
398 manner that is clearly legible, and must include the words: "To
399 report a complaint regarding the services you receive, please
400 call toll-free ...[telephone number]... or Disability Rights
401 Florida ...[telephone number]..."; and the statewide toll-free
402 telephone number for the central abuse hotline must be provided
403 to clients in a manner that is clearly legible and must include
404 the words: "To report abuse, neglect or exploitation, please
405 call toll-free ...[telephone number where complaints may be
406 lodged]...." The licensee must ensure a client's access to a

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407 telephone, where telephone numbers required in this subsection
408 are readily available, to call the agency, central abuse
409 hotline, or Disability Rights Florida.

410 (4) A licensee or employee of a facility may not serve
411 notice upon a client to leave the premises or take any other
412 retaliatory action against any person solely due to the
413 following:

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

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

418 (5) Before or at the time of admission, the client and the
419 client's representative shall be provided with a copy of the
420 licensee's responsibilities as provided in this section,
421 including grievance procedures and the telephone numbers
422 provided in this section.

423 (6) The licensee must develop and implement policies and
424 procedures governing the release of any client information,
425 including consent necessary from the client or the client's
426 representative.

427 Section 8. Section 400.9976, Florida Statutes, is created
428 to read:

429 400.9976 Medication practices.—

430 (1) An individual medication administration record must be
431 maintained for each client. Each dose of medication, including a
432 self-administered dose, shall be properly recorded in the
433 client's record. Each client who self-administers medication
434 shall be given a pill organizer. Medication must be placed in
435 the pill organizer by a nurse. A nurse shall document the date

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436 and time medication is placed into each client's pill organizer.
437 All medications must be administered in compliance with the
438 physician's orders.

439 (2) If the interdisciplinary team determines that self-
440 administration of medications is an appropriate objective, and
441 if the physician does not specify otherwise, a client must be
442 taught to self-administer his or her medication without a staff
443 person. This includes all forms of administration, including
444 orally, via injection, and via suppository. The client's
445 physician must be informed of the interdisciplinary team's
446 decision that self-administration of medications is an objective
447 for the client. A client may not self-administer medication
448 until he or she demonstrates the competency to take the correct
449 medication in the correct dosage at the correct time, to respond
450 to missed doses, and to contact an appropriate person with
451 questions.

452 (3) Medication administration discrepancies and adverse
453 drug reactions must be recorded and reported immediately to a
454 physician.

455 Section 9. Section 400.9977, Florida Statutes, is created
456 to read:

457 400.9977 Protection from abuse, neglect, mistreatment, and
458 exploitation.—The licensee must develop and implement policies
459 and procedures for the screening and training of employees, the
460 protection of clients, and the prevention, identification,
461 investigation, and reporting of abuse, neglect, and
462 exploitation. This includes the licensee's identification of
463 clients whose personal histories render them at risk for abusing
464 other clients, development of intervention strategies to prevent

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465 occurrences, monitoring for changes that would trigger abusive
466 behavior, and reassessment of the interventions on a regular
467 basis. A licensee shall implement procedures to:

468 (1) Screen potential employees for a history of abuse,
469 neglect, or mistreatment of clients. The screening shall include
470 an attempt to obtain information from previous employers and
471 current employers and verification with the appropriate
472 licensing boards and registries.

473 (2) Train employees, through orientation and ongoing
474 sessions, on issues related to abuse prohibition practices,
475 including identification of abuse, neglect, mistreatment, and
476 exploitation, appropriate interventions to deal with aggressive
477 or catastrophic reactions of clients, the process to report
478 allegations without fear of reprisal, and recognition of signs
479 of frustration and stress that may lead to abuse.

480 (3) Provide clients, families, and staff with information
481 on how and to whom they may report concerns, incidents, and
482 grievances without the fear of retribution and provide feedback
483 regarding the concerns that have been expressed. A licensee must
484 identify, correct, and intervene in situations in which abuse,
485 neglect, mistreatment, or exploitation is likely to occur,
486 including:

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

490 (b) Providing sufficient staff on each shift to meet the
491 needs of the clients, and ensuring that the staff assigned have
492 knowledge of the individual clients' care needs. The licensee
493 shall identify inappropriate behaviors of its staff, such as

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494 using derogatory language, rough handling, ignoring clients
495 while giving care, and directing clients who need toileting
496 assistance to urinate or defecate in their beds.

497 (c) Assessing, planning care for, and monitoring clients
498 with needs and behaviors that might lead to conflict or neglect,
499 such as clients with a history of aggressive behaviors, clients
500 who have behaviors such as entering other clients' rooms,
501 clients with self-injurious behaviors, clients with
502 communication disorders, and clients who require heavy nursing
503 care or are totally dependent on staff.

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

507 (5) Investigate different types of incidents, identify the
508 staff member responsible for the initial reporting, investigate
509 alleged violations, and report results to the proper
510 authorities. The licensee must analyze the occurrences to
511 determine what changes are needed, if any, to policies and
512 procedures to prevent further occurrences and to take all
513 necessary corrective action depending on the results of the
514 investigation.

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

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

521 Section 10. Section 400.9978, Florida Statutes, is created
522 to read:

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523 400.9978 Restraints and seclusion; client safety.-

524 (1) The use of physical restraints must be ordered and
525 documented by a physician and must be consistent with policies
526 and procedures adopted by the facility. The client or, if
527 applicable, the client's representative must be informed of the
528 facility's physical restraint policies and procedures at the
529 time of the client's admission.

530 (2) The use of chemical restraints is limited to prescribed
531 dosages of medications as ordered by a physician and must be
532 consistent with the client's diagnosis and the policies and
533 procedures adopted by the facility. The client or, if
534 applicable, the client's representative must be informed of the
535 facility's chemical restraint policies and procedures at the
536 time of the client's admission.

537 (3) Based on a physician's assessment, if a client exhibits
538 symptoms that present an immediate risk of injury or death to
539 self or others, a physician may issue an emergency treatment
540 order to immediately administer rapid response psychotropic
541 medications or other chemical restraints. Each emergency
542 treatment order must be documented and maintained in the
543 client's record.

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

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

549 (4) A client who is prescribed and receiving a medication
550 that can serve as a chemical restraint for a purpose other than
551 an emergency treatment order must be evaluated by his or her

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552 physician at least monthly to assess the following:

553 (a) The continued need for the medication.

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

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

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

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

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

568 Section 11. Section 400.9979, Florida Statutes, is created
569 to read:

570 400.9979 Background screening; administration and
571 management.-

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

575 (2) The licensee shall maintain personnel records for each
576 staff member which contain, at a minimum, documentation of
577 background screening, if applicable, a job description,
578 documentation of compliance with all training requirements of
579 this part or applicable rule, the employment application,
580 references, a copy of all job performance evaluations, and, for

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581 each staff member who performs services for which licensure or
582 certification is required, a copy of all licenses or
583 certification held by the staff member.

584 (3) The licensee must:

585 (a) Develop and implement infection control policies and
586 procedures and include such policies and procedures in the
587 licensee's policy manual.

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

589 (c) Designate one person as an administrator who is
590 responsible and accountable for the overall management of the
591 facility.

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

595 (e) Designate in writing a program director who is
596 responsible for supervising the therapeutic and behavioral
597 staff, determining the levels of supervision, and determining
598 room placement for each client.

599 (f) Designate in writing a person to be responsible when
600 the program director is absent from the facility for more than
601 24 hours.

602 (g) Obtain approval of the comprehensive emergency
603 management plan, pursuant to s. 400.9981(2)(e), from the local
604 emergency management agency. Pending the approval of the plan,
605 the local emergency management agency shall ensure that the
606 following agencies, at a minimum, are given the opportunity to
607 review the plan: the Department of Health, the Agency for Health
608 Care Administration, and the Division of Emergency Management.
609 Appropriate volunteer organizations must also be given the

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610 opportunity to review the plan. The local emergency management
611 agency shall complete its review within 60 days and either
612 approve the plan or advise the licensee of necessary revisions.

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

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

620 2. A record of all accidents or unusual incidents involving
621 any client or staff member that caused, or had the potential to
622 cause, injury or harm to any person or property within the
623 facility. Such records must contain a clear description of each
624 accident or incident, the names of the persons involved, a
625 description of all medical or other services provided to these
626 persons specifying who provided such services, and the steps
627 taken to prevent recurrence of such accidents or incidents.

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

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

632 Section 12. Section 400.9980, Florida Statutes, is created
633 to read:

634 400.9980 Property and personal affairs of clients.—

635 (1) A client shall be given the option of using his or her
636 own belongings, as space permits; choosing his or her roommate
637 if practical and not clinically contraindicated; and, whenever
638 possible, unless the client is adjudicated incompetent or

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639 incapacitated under state law, managing his or her own affairs.

640 (2) The admission of a client to a facility and his or her
641 presence therein shall not confer on a licensee, administrator,
642 employee, or representative thereof any authority to manage,
643 use, or dispose of any property of the client, nor shall such
644 admission or presence confer on any of such persons any
645 authority or responsibility for the personal affairs of the
646 client except that which may be necessary for the safe
647 management of the facility or for the safety of the client.

648 (3) A licensee, administrator, employee, or representative
649 thereof may:

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

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

658 (c) Act as the power of attorney for a client if the
659 licensee has filed a surety bond with the agency in an amount
660 equal to twice the average monthly income of the client, plus
661 the value of any client's property under the control of the
662 attorney in fact.

663

664 The bond under paragraph (b) or paragraph (c) shall be executed
665 by the licensee as principal and a licensed surety company. The
666 bond shall be conditioned upon the faithful compliance of the
667 licensee with the requirements of licensure and shall be payable

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668 to the agency for the benefit of any client who suffers a
669 financial loss as a result of the misuse or misappropriation of
670 funds held pursuant to this subsection. Any surety company that
671 Cancels or does not renew the bond of any licensee shall notify
672 the agency in writing not less than 30 days in advance of such
673 action, giving the reason for the cancellation or nonrenewal.
674 Any licensee, administrator, employee, or representative thereof
675 who is granted power of attorney for any client of the facility
676 shall, on a monthly basis, notify the client in writing of any
677 transaction made on behalf of the client pursuant to this
678 subsection, and a copy of such notification given to the client
679 shall be retained in each client's file and available for agency
680 inspection.

681 (4) A licensee, upon mutual consent with the client, shall
682 provide for the safekeeping in the facility of the client's
683 personal effects of a value not in excess of \$1,000 and the
684 client's funds not in excess of \$500 cash and shall keep
685 complete and accurate records of all such funds and personal
686 effects received. If a client is absent from a facility for 24
687 hours or more, the licensee may provide for the safekeeping of
688 the client's personal effects of a value in excess of \$1,000.

689 (5) Any funds or other property belonging to or due to a
690 client or expendable for his or her account that is received by
691 licensee shall be trust funds and shall be kept separate from
692 the funds and property of the licensee and other clients or
693 shall be specifically credited to such client. Such trust funds
694 shall be used or otherwise expended only for the account of the
695 client. At least once every month, unless upon order of a court
696 of competent jurisdiction, the licensee shall furnish the client

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697 and the client's representative a complete and verified
698 statement of all funds and other property to which this
699 subsection applies, detailing the amount and items received,
700 together with their sources and disposition. In any event, the
701 licensee shall furnish such statement annually and upon the
702 discharge or transfer of a client. Any governmental agency or
703 private charitable agency contributing funds or other property
704 to the account of a client shall also be entitled to receive
705 such statement monthly and upon the discharge or transfer of the
706 client.

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

709 1. Intentionally withholds a client's personal funds,
710 personal property, or personal needs allowance, or who demands,
711 beneficially receives, or contracts for payment of all or any
712 part of a client's personal property or personal needs allowance
713 in satisfaction of the facility rate for supplies and services;
714 or

715 2. Borrows from or pledges any personal funds of a client,
716 other than the amount agreed to by written contract under s.
717 429.24,

718
719 commits a misdemeanor of the first degree, punishable as
720 provided in s. 775.082 or s. 775.083.

721 (b) Any licensee, administrator, employee, or
722 representative thereof who is granted power of attorney for any
723 client of the facility and who misuses or misappropriates funds
724 obtained through this power commits a felony of the third
725 degree, punishable as provided in s. 775.082, s. 775.083, or s.

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726 775.084.

727 (7) In the event of the death of a client, a licensee shall
728 return all refunds, funds, and property held in trust to the
729 client's personal representative, if one has been appointed at
730 the time the licensee disburses such funds, or, if not, to the
731 client's spouse or adult next of kin named in a beneficiary
732 designation form provided by the licensee to the client. If the
733 client has no spouse or adult next of kin or such person cannot
734 be located, funds due the client shall be placed in an interest-
735 bearing account and all property held in trust by the licensee
736 shall be safeguarded until such time as the funds and property
737 are disbursed pursuant to the Florida Probate Code. Such funds
738 shall be kept separate from the funds and property of the
739 licensee and other clients of the facility. If the funds of the
740 deceased client are not disbursed pursuant to the Florida
741 Probate Code within 2 years after the client's death, the funds
742 shall be deposited in the Health Care Trust Fund administered by
743 the agency.

744 (8) The agency, by rule, may clarify terms and specify
745 procedures and documentation necessary to administer the
746 provisions of this section relating to the proper management of
747 clients' funds and personal property and the execution of surety
748 bonds.

749 Section 13. Section 400.9981, Florida Statutes, is created
750 to read:

751 400.9981 Rules establishing standards.—

752 (1) It is the intent of the Legislature that rules
753 published and enforced pursuant to this part and part II of
754 chapter 408 include criteria to ensure reasonable and consistent

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755 quality of care and client safety. Rules should make reasonable
756 efforts to accommodate the needs and preferences of clients to
757 enhance the quality of life in transitional living facilities.

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

761 (a) The location of transitional living facilities.

762 (b) The number of qualifications of all personnel,
763 including management, medical, nursing, and other professional
764 personnel and nursing assistants and support personnel having
765 responsibility for any part of the care given to clients. The
766 licensee must have enough qualified professional staff available
767 to carry out and monitor the various professional interventions
768 in accordance with the stated goals and objectives of each
769 comprehensive treatment plan.

770 (c) Requirements for personnel procedures, insurance
771 coverage, reporting procedures, and documentation necessary to
772 implement this part.

773 (d) Services provided to clients of transitional living
774 facilities.

775 (e) The preparation and annual update of a comprehensive
776 emergency management plan in consultation with the Division of
777 Emergency Management. At a minimum, the rules must provide for
778 plan components that address emergency evacuation
779 transportation; adequate sheltering arrangements; postdisaster
780 activities, including provision of emergency power, food, and
781 water; postdisaster transportation; supplies; staffing;
782 emergency equipment; individual identification of clients and
783 transfer of records; communication with families; and responses

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784 to family inquiries.

785 Section 14. Section 400.9982, Florida Statutes, is created
786 to read:

787 400.9982 Violations; penalties.-

788 (1) Each violation of this part and rules adopted pursuant
789 thereto shall be classified according to the nature of the
790 violation and the gravity of its probable effect on facility
791 clients. The agency shall indicate the classification on the
792 written notice of the violation as follows:

793 (a) Class "I" violations are defined in s. 408.813. The
794 agency shall issue a citation regardless of correction and
795 impose an administrative fine of \$5,000 for an isolated
796 violation, \$7,500 for a patterned violation, and \$10,000 for a
797 widespread violation. Violations may be identified and a fine
798 must be levied notwithstanding the correction of the deficiency
799 giving rise to the violation.

800 (b) Class "II" violations are defined in s. 408.813. The
801 agency shall impose an administrative fine of \$1,000 for an
802 isolated violation, \$2,500 for a patterned violation, and \$5,000
803 for a widespread violation. A fine must be levied
804 notwithstanding the correction of the deficiency giving rise to
805 the violation.

806 (c) Class "III" violations are defined in s. 408.813. The
807 agency shall impose an administrative fine of \$500 for an
808 isolated violation, \$750 for a patterned violation, and \$1,000
809 for a widespread violation. If a deficiency giving rise to a
810 class "III" violation is corrected within the time specified by
811 the agency, a fine may not be imposed.

812 (d) Class "IV" violations are defined in s. 408.813. The

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813 agency shall impose an administrative fine for a cited class IV
814 violation in an amount not less than \$100 and not exceeding \$200
815 for each violation.

816 Section 15. Section 400.9983, Florida Statutes, is created
817 to read:

818 400.9983 Receivership proceedings.—The agency may apply s.
819 429.22 with regard to receivership proceedings for transitional
820 living facilities.

821 Section 16. Section 400.9984, Florida Statutes, is created
822 to read:

823 400.9984 Interagency communication.—The agency, the
824 department, the Agency for Persons with Disabilities, and the
825 Department of Children and Families shall develop electronic
826 systems to ensure that relevant information pertaining to the
827 regulation of transitional living facilities and clients is
828 timely and effectively communicated among agencies in order to
829 facilitate the protection of clients. Electronic sharing of
830 information shall include, at a minimum, a brain and spinal cord
831 injury registry and a client abuse registry.

832 Section 17. Section 400.805, Florida Statutes, is repealed.
833 Every transitional living facility licensed under s. 400.805 on
834 or before July 1, 2013, shall be licensed under the provisions
835 of this act.

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

838 381.745 Definitions; ss. 381.739–381.79.—As used in ss.
839 381.739–381.79, the term:

840 (9) "Transitional living facility" means a state-approved
841 facility, as defined and licensed under chapter 400 ~~or chapter~~

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842 ~~429, or a facility approved by the brain and spinal cord injury~~
843 ~~program in accordance with this chapter.~~

844 Section 19. Section 381.75, Florida Statutes, is amended to
845 read:

846 381.75 Duties and responsibilities of the department, ~~of~~
847 ~~transitional living facilities, and of residents.~~—Consistent
848 with the mandate of s. 381.7395, the department shall develop
849 and administer a multilevel treatment program for individuals
850 who sustain brain or spinal cord injuries and who are referred
851 to the brain and spinal cord injury program.

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

857 (2) The department shall refer individuals who have brain
858 or spinal cord injuries to other state agencies to assure that
859 rehabilitative services, if desired, are obtained by that
860 individual.

861 (3) The department, in consultation with emergency medical
862 service, shall develop standards for an emergency medical
863 evacuation system that will ensure that all individuals who
864 sustain traumatic brain or spinal cord injuries are transported
865 to a department-approved trauma center that meets the standards
866 and criteria established by the emergency medical service and
867 the acute-care standards of the brain and spinal cord injury
868 program.

869 (4) The department shall develop standards for designation
870 of rehabilitation centers to provide rehabilitation services for

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871 individuals who have brain or spinal cord injuries.

872 (5) The department shall determine the appropriate number
873 of designated acute-care facilities, inpatient rehabilitation
874 centers, and outpatient rehabilitation centers, needed based on
875 incidence, volume of admissions, and other appropriate criteria.

876 (6) The department shall develop standards for designation
877 of transitional living facilities to provide transitional living
878 services for individuals who participate in the brain and spinal
879 cord injury program ~~the opportunity to adjust to their~~
880 ~~disabilities and to develop physical and functional skills in a~~
881 ~~supported living environment.~~

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

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

892 ~~(c) A transitional living facility for an individual who~~
893 ~~has a brain or spinal cord injury shall provide to such~~
894 ~~individual, in a residential setting, a goal-oriented treatment~~
895 ~~program designed to improve the individual's physical,~~
896 ~~cognitive, communicative, behavioral, psychological, and social~~
897 ~~functioning, as well as to provide necessary support and~~
898 ~~supervision. A transitional living facility shall offer at least~~
899 ~~the following therapies: physical, occupational, speech,~~

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900 ~~neuropsychology, independent living skills training, behavior~~
901 ~~analysis for programs serving brain-injured individuals, health~~
902 ~~education, and recreation.~~

903 ~~(d) All residents shall use the transitional living~~
904 ~~facility as a temporary measure and not as a permanent home or~~
905 ~~domicile. The transitional living facility shall develop an~~
906 ~~initial treatment plan for each resident within 3 days after the~~
907 ~~resident's admission. The transitional living facility shall~~
908 ~~develop a comprehensive plan of treatment and a discharge plan~~
909 ~~for each resident as soon as practical, but no later than 30~~
910 ~~days after the resident's admission. Each comprehensive~~
911 ~~treatment plan and discharge plan must be reviewed and updated~~
912 ~~as necessary, but no less often than quarterly. This subsection~~
913 ~~does not require the discharge of an individual who continues to~~
914 ~~require any of the specialized services described in paragraph~~
915 ~~(c) or who is making measurable progress in accordance with that~~
916 ~~individual's comprehensive treatment plan. The transitional~~
917 ~~living facility shall discharge any individual who has an~~
918 ~~appropriate discharge site and who has achieved the goals of his~~
919 ~~or her discharge plan or who is no longer making progress toward~~
920 ~~the goals established in the comprehensive treatment plan and~~
921 ~~the discharge plan. The discharge location must be the least~~
922 ~~restrictive environment in which an individual's health, well-~~
923 ~~being, and safety is preserved.~~

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

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

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929 381.78 Advisory council on brain and spinal cord injuries.-

930 (4) The council shall:

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

934 ~~(b) Annually appoint a five-member committee composed of~~
935 ~~one individual who has a brain injury or has a family member~~
936 ~~with a brain injury, one individual who has a spinal cord injury~~
937 ~~or has a family member with a spinal cord injury, and three~~
938 ~~members who shall be chosen from among these representative~~
939 ~~groups: physicians, other allied health professionals,~~
940 ~~administrators of brain and spinal cord injury programs, and~~
941 ~~representatives from support groups with expertise in areas~~
942 ~~related to the rehabilitation of individuals who have brain or~~
943 ~~spinal cord injuries, except that one and only one member of the~~
944 ~~committee shall be an administrator of a transitional living~~
945 ~~facility. Membership on the council is not a prerequisite for~~
946 ~~membership on this committee.~~

947 ~~1. The committee shall perform onsite visits to those~~
948 ~~transitional living facilities identified by the Agency for~~
949 ~~Health Care Administration as being in possible violation of the~~
950 ~~statutes and rules regulating such facilities. The committee~~
951 ~~members have the same rights of entry and inspection granted~~
952 ~~under s. 400.805(4) to designated representatives of the agency.~~

953 ~~2. Factual findings of the committee resulting from an~~
954 ~~onsite investigation of a facility pursuant to subparagraph 1.~~
955 ~~shall be adopted by the agency in developing its administrative~~
956 ~~response regarding enforcement of statutes and rules regulating~~
957 ~~the operation of the facility.~~

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958 ~~3. Onsite investigations by the committee shall be funded~~
959 ~~by the Health Care Trust Fund.~~

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

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

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