

601-100XA-08

Bill No. HB 1625

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Health Care Standards & Regulatory Reform offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause and insert in lieu thereof:

Section 1. Present subsection (7) of section 400.805, Florida Statutes, is redesignated as subsection (10) and new subsections (7), (8), and (9) are added to that section to read:

400.805 Transitional living facilities.--

(7) Any designated officer or employee of the agency, of the state, or of the local fire marshal may enter unannounced upon and into the premises of any facility licensed under this section in order to determine the state of compliance with this section and the rules or standards in force under this section. The right of entry and inspection also extends to any premises that the agency has reason to believe are being operated or maintained as a facility without a license; but such an entry or inspection may not be made

1 without the permission of the owner or person in charge of the
2 facility unless a warrant that authorizes the entry is first
3 obtained from the circuit court. The warrant requirement
4 extends only to a facility that the agency has reason to
5 believe is being operated or maintained as a facility without
6 a license. An application for a license or renewal thereof
7 which is made under this section constitutes permission for,
8 and acquiescence in, any entry or inspection of the premises
9 for which the license is sought, in order to facilitate
10 verification of the information submitted on or in connection
11 with the application; to discover, investigate, and determine
12 the existence of abuse or neglect; or to elicit, receive,
13 respond to, and resolve complaints. A current valid license
14 constitutes unconditional permission for, and acquiescence in,
15 any entry or inspection of the premises by authorized
16 personnel. The agency retains the right of entry and
17 inspection of facilities that have had a license revoked or
18 suspended within the previous 24 months, to ensure that the
19 facility is not operating unlawfully. However, before the
20 facility is entered, a statement of probable cause must be
21 filed with the director of the agency, who must approve or
22 disapprove the action within 48 hours. Probable cause
23 includes, but is not limited to, evidence that the facility
24 holds itself out to the public as a provider of personal
25 assistance services, or the receipt by the advisory council on
26 brain and spinal cord injuries of a complaint about the
27 facility.

28 (8) The agency may institute injunctive proceedings in
29 a court of competent jurisdiction for temporary or permanent
30 relief to:

31 (a) Enforce this section or any minimum standard,

1 rule, or order issued pursuant thereto if the agency's effort
2 to correct a violation through administrative fines has failed
3 or when the violation materially affects the health, safety,
4 or welfare of residents; or

5 (b) Terminate the operation of a facility if a
6 violation of this section or of any standard or rule adopted
7 pursuant thereto exists which materially affects the health,
8 safety, or welfare of residents.

9
10 The Legislature recognizes that, in some instances, action is
11 necessary to protect residents of facilities from immediately
12 life-threatening situations. If it appears by competent
13 evidence or a sworn, substantiated affidavit that a temporary
14 injunction should issue, the court, pending the determination
15 on final hearing, shall enjoin operation of the facility.

16 (9) The agency may impose an immediate moratorium on
17 admissions to a facility when the agency determines that any
18 condition in the facility presents a threat to the health,
19 safety, or welfare of the residents in the facility. If a
20 facility's license is denied, revoked, or suspended, the
21 facility may be subject to the immediate imposition of a
22 moratorium on admissions to run concurrently with licensure
23 denial, revocation, or suspension.

24 Section 2. Section 413.49, Florida Statutes, is
25 amended to read:

26 413.49 Duties and responsibilities of the division, of
27 transitional living facilities, and of residents.--Consistent
28 with the mandate of s. 413.46, the division shall develop and
29 administer a multilevel treatment program for persons who have
30 brain or spinal cord injuries and who are referred to the
31 brain and spinal cord injury program.

- 1 (1) Within 15 days after any report of a person who
2 has a brain or spinal cord injury, the division shall notify
3 the individual or the most immediate available family members
4 of their right to assistance from the state, the services
5 available, and the eligibility requirements.
- 6 (2) The division shall refer persons who have brain or
7 spinal cord injuries to other state agencies to assure that
8 rehabilitative services, if desired, are obtained by that
9 person.
- 10 (3) The division, in consultation with emergency
11 medical service, shall develop standards for an emergency
12 medical evacuation system that will ensure that all persons
13 who sustain traumatic brain or spinal cord injuries are
14 transported to a division-approved trauma center that meets
15 the standards and criteria established by the emergency
16 medical service and the acute-care standards of the brain and
17 spinal cord injury program.
- 18 (4) The division shall develop standards for
19 designation of rehabilitation centers to provide
20 rehabilitation services for persons who have brain or spinal
21 cord injuries.
- 22 (5) The division shall determine the appropriate
23 number of designated acute-care facilities, inpatient
24 rehabilitation centers, and outpatient rehabilitation centers,
25 needed based on incidence, volume of admissions, and other
26 appropriate criteria.
- 27 (6) The division shall develop standards for
28 designation of transitional living facilities to provide
29 individuals the opportunity to adjust to their disabilities
30 and to develop physical and functional skills in a supported
31 living environment.

1 (a) The Agency for Health Care Administration, in
2 consultation with the division, shall develop rules for the
3 licensure of transitional living facilities for persons who
4 have brain or spinal cord injuries.

5 (b) The goal of a transitional living program for
6 persons who have brain or spinal cord injuries is to assist
7 each person who has such a disability to achieve a higher
8 level of independent functioning and to enable that person to
9 reenter the community. The program shall be focused on
10 preparing participants to return to community living.

11 (c) A transitional living facility for a person who
12 has a brain or spinal cord injury shall provide to such
13 person, in a residential setting, a ~~time-limited,~~
14 goal-oriented treatment program designed to improve the
15 person's physical, cognitive, communicative, behavioral,
16 psychological, and social functioning, as well as to provide
17 necessary support and supervision. A transitional living
18 facility shall offer at least the following therapies:
19 physical, occupational, speech, neuropsychology, independent
20 living skills training, behavior analysis for programs serving
21 brain-injured persons, health education, and recreation.

22 (d) All residents shall use the transitional living
23 facility as a temporary measure and not as a permanent home or
24 domicile. The transitional living facility shall develop an
25 initial treatment plan for each resident within 3 days after
26 the resident's admission. The transitional living facility
27 shall develop a comprehensive plan of treatment and a
28 discharge plan for each resident as soon as practical but no
29 later than 30 days after the resident's admission. Each
30 comprehensive treatment plan and discharge plan must be
31 reviewed and updated as necessary but no less often than

1 quarterly. This subsection does not require the discharge of
 2 an individual who continues to require any of the specialized
 3 services described in paragraph (c) or who is making
 4 measurable progress in accordance with that individual's
 5 comprehensive treatment plan. The transitional living facility
 6 shall discharge any individual who has an appropriate
 7 discharge site and who has achieved the goals of his or her
 8 discharge plan or who is no longer making progress toward the
 9 goals established in the comprehensive treatment plan and the
 10 discharge plan. The discharge location must be the least
 11 restrictive environment in which an individual's health,
 12 well-being, and safety is preserved.

13 (7) Recipients of services, under this section, from
 14 any of the facilities referred to in this section shall pay a
 15 fee based on ability to pay.

16 Section 3. Subsection (4) of section 413.605, Florida
 17 Statutes, is amended to read:

18 413.605 Advisory council on brain and spinal cord
 19 injuries.--

20 (4) The council shall:

21 (a) Provide advice and expertise to the division in
 22 the preparation, implementation, and periodic review of the
 23 brain and spinal cord injury program as referenced in s.
 24 413.49.

25 (b) Annually appoint a five-member committee composed
 26 of one person who has a brain injury or has a family member
 27 with a brain injury, one person who has a spinal cord injury
 28 or has a family member with a spinal cord injury, and three
 29 members who shall be chosen from among these representative
 30 groups: physicians, other allied health professionals,
 31 administrators of brain and spinal cord injury programs, and

1 representatives from support groups with expertise in areas
2 related to the rehabilitation of persons who have brain or
3 spinal cord injuries, except that one and only one member of
4 the committee shall be an administrator of a transitional
5 living facility. Membership on the council is not a
6 prerequisite for membership on this committee.

7 1. The committee shall perform onsite visits to those
8 transitional living facilities identified by the Agency for
9 Health Care Administration as being in possible violation of
10 the statutes and rules regulating such facilities. The
11 committee members have the same rights of entry and inspection
12 granted under s. 400.805(7) to designated representatives of
13 the agency.

14 2. Factual findings of the committee resulting from an
15 onsite investigation of a facility pursuant to subparagraph 1.
16 shall be adopted by the agency in developing its
17 administrative response regarding enforcement of statutes and
18 rules regulating the operation of the facility.

19 3. Onsite investigations by the committee shall be
20 funded by the Health Care Trust Fund.

21 4. Travel expenses for committee members shall be
22 reimbursed in accordance with s. 112.061. Members of the
23 committee shall recuse themselves from participating in any
24 investigation that would create a conflict of interest under
25 state law, and the council shall replace the member, either
26 temporarily or permanently.

27 Section 4. This act shall take effect October 1, 1998.

30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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Bill No. HB 1625

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1 remove from the title of the bill:

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3 and insert in lieu thereof:

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A bill to be entitled

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An act relating to transitional living

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facilities for brain-injured and

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spinal-cord-injured persons; amending s.

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400.805, F.S.; providing for the regulation of

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transitional living facilities; providing for

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right of entry and inspection; providing for

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injunctive proceedings; providing for a

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moratorium on admissions; amending s. 413.49,

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F.S.; providing duties of transitional living

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facilities to provide certain therapies and

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plans; amending s. 413.605, F.S.; providing

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additional duties of the advisory council on

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brain and spinal cord injuries; providing an

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effective date.

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