

By the Committee on Health Care Standards & Regulatory Reform and Representatives Dawson-White, Lippman, Wasserman Schultz, Saunders and Minton

1                                   A bill to be entitled  
2           An act relating to transitional living  
3           facilities for brain and spinal cord injured  
4           persons; creating pt. IX of ch. 400, F.S.;  
5           creating s. 400.905, F.S.; providing for  
6           licensure of transitional living facilities;  
7           creating s. 400.906, F.S.; providing  
8           definitions; creating s. 400.907, F.S.;  
9           establishing license and fee requirements;  
10          creating s. 400.908, F.S.; regulating sale or  
11          transfer of ownership of a facility; creating  
12          s. 400.909, F.S.; providing for denial,  
13          revocation, or suspension of a license and  
14          imposition of an administrative fine; creating  
15          s. 400.910, F.S.; providing for a moratorium on  
16          admissions; creating s. 400.911, F.S.;  
17          providing for initial licensure application;  
18          creating s. 400.912, F.S.; providing for  
19          renewal, expiration, and conditional licenses;  
20          creating s. 400.913, F.S.; requiring reports of  
21          abuse in facilities; creating s. 400.914, F.S.;  
22          providing for disposition of fees and fines;  
23          creating s. 400.915, F.S.; providing for  
24          violations and penalties; creating s. 400.916,  
25          F.S.; prohibiting rebates; providing penalties;  
26          creating s. 400.917, F.S.; prohibiting certain  
27          solicitations; allowing certain third-party  
28          supplementation; creating s. 400.918, F.S.;  
29          providing for injunctive proceedings; creating  
30          s. 400.919, F.S.; providing for receivership  
31          proceedings; creating s. 400.920, F.S.;

1 providing for contracts; creating s. 400.921,  
2 F.S.; providing requirements for use of  
3 licensed personnel; creating s. 400.922, F.S.;  
4 providing for appropriateness of placements and  
5 examination of residents; creating s. 400.923,  
6 F.S.; providing for property and personal  
7 affairs of residents; providing a penalty;  
8 creating s. 400.924, F.S.; providing a resident  
9 bill of rights; creating 400.925, F.S.;  
10 providing for civil actions to enforce rights;  
11 creating s. 400.926, F.S.; providing right of  
12 entry and inspection; creating s. 400.927,  
13 F.S.; providing procedures for closing of  
14 facilities, including notice and penalties;  
15 creating s. 400.928, F.S.; providing for rules  
16 establishing standards; creating s. 400.929,  
17 F.S.; providing for maintenance of records and  
18 reports; amending s. 413.605, F.S.; providing  
19 additional duty of the advisory council on  
20 brain and spinal cord injuries; amending s.  
21 413.273, F.S.; revising per diem and travel  
22 expenses for members of certain councils;  
23 amending s. 413.395, F.S.; authorizing  
24 incorporation of the Florida Independent Living  
25 Council; authorizing members' compensation and  
26 reimbursement for child care; amending s.  
27 413.405, F.S., relating to the Rehabilitation  
28 Advisory Council; authorizing members'  
29 reimbursement for child care; repealing s.  
30 400.805, F.S., relating to transitional living  
31

1 facilities for brain and spinal cord injured  
2 persons; providing an effective date.

3

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

5

6 Section 1. Creating part IX of chapter 400, Florida  
7 Statutes, entitled "Transitional Living Facilities."

8 Section 2. Section 400.905, Florida Statutes, is  
9 created to read:

10 400.905 Transitional living facilities for brain and  
11 spinal cord injured persons.--

12 (1) Facilities licensed under this part include all  
13 facilities delivering services under this part, except as  
14 otherwise provided in this part.

15 (2) The following are exempt from the requirements of  
16 this part or ineligible for a license issued under this part:

17 (a) Any facility, institution, or other place operated  
18 by the Federal Government or any agency of the Federal  
19 Government.

20 (b) Any facility or part of a facility licensed under  
21 chapter 393 or chapter 394 or licensed or eligible for  
22 licensure under any other part of this chapter.

23 (3)(a) The agency shall adopt rules in consultation  
24 with the division governing the physical plant and fiscal  
25 management of transitional living facilities.

26 (b) The division shall adopt rules in consultation  
27 with the agency governing the services provided to clients,  
28 with investigative and enforcement duties divided between the  
29 division and the agency as described in part II of chapter 413  
30 and this part.

31

1       (4)(a) It is unlawful for any person to offer or  
2 advertise, in any medium whatever, services or care as a  
3 transitional living facility, or to use the term "transitional  
4 living facility" or the term "transitional living program" to  
5 describe services or care in any advertisement or offering,  
6 without obtaining a license under this part.

7       (b) It is unlawful for a person licensed under this  
8 part to advertise or represent to the public that the licensee  
9 holds a license for any other type of facility.

10       (5) A violation of paragraph (4)(a) or paragraph  
11 (4)(b) or rules adopted under those paragraphs is a  
12 misdemeanor of the first degree, punishable as provided in s.  
13 775.082 or s. 775.083.

14       Section 3. Section 400.906, Florida Statutes, is  
15 created to read:

16       400.906 Definitions.--When used in this part, unless  
17 the context otherwise requires, the term:

18       (1) "Activities of daily living" is defined as  
19 provided in s. 413.20.

20       (2) "Administrator" means an individual who has  
21 general administrative charge of a facility.

22       (3) "Agency" means the Agency for Health Care  
23 Administration.

24       (4) "Applicant" means any facility owner, or if a  
25 business entity, a person appointed by such entity to make  
26 application for a license.

27       (5) "Community reintegration" means the point at which  
28 the division makes a determination that all available  
29 resources to address the medical, psychosocial, and personal  
30 needs of an individual within a particular community necessary  
31 to minimize secondary medical and psychological complications

1 and long-term care and promote independence and  
2 self-sufficiency have been identified and that the individual  
3 may be safely accommodated within the community independent of  
4 any further support from the division.

5 (6) "Department" means the Department of Labor and  
6 Employment Security.

7 (7) "Division" means the Division of Vocational  
8 Rehabilitation of the Department of Labor and Employment  
9 Security.

10 (8) "Facility" means a transitional living facility.

11 (9) "Personal assistance services" is defined as  
12 provided in s. 413.20.

13 (10) "Resident" means a person 16 years of age or  
14 older, residing in and receiving care at or through a  
15 facility.

16 (11) "Resident's representative or designee" means a  
17 person 18 years of age or older, other than the facility owner  
18 or an agent or employee of the facility, designated in writing  
19 by the resident, if legally competent, to receive notice of  
20 changes in the contract executed pursuant to s. 400.920 and to  
21 receive notice of and participate in meetings between the  
22 resident and the facility owner, administrator, or staff  
23 concerning the rights of the resident.

24 (12) "Supervision of activities of daily living" means  
25 reminding residents to engage in activities of daily living,  
26 and, when necessary, observing or providing verbal cueing to  
27 residents while they perform these activities.

28 (13) "Time-limited" as used in s. 413.49(6)(c) means  
29 the period of time during which the individual demonstrates  
30 measurable progress toward achieving community reintegration.

31

1           (14) "Transitional living facility" means a site  
2 performing the functions stated in s. 413.49(6)(b)-(d)  
3 primarily for the provision of services related to and  
4 directed at traumatic injury and operating solely to  
5 effectuate a transitional living program, complying with the  
6 responsibilities stated in this part and relevant parts of  
7 chapter 413.

8           (15) "Transitional living program" means a written  
9 plan having the goal stated in s. 413.49(6)(b), developed and  
10 agreed upon by the resident and, if applicable, the resident's  
11 representative or designee or the resident's surrogate,  
12 guardian, or attorney in fact, if any, and the administrator  
13 or designee representing the facility, which addresses the  
14 unique physical and psychosocial needs, abilities, and  
15 personal preferences of a resident receiving services at or  
16 through the facility. The plan shall include a description, in  
17 easily understood language, of what services shall be  
18 provided, who shall provide the services, when the services  
19 shall be rendered, and the purposes and benefits of the  
20 services.

21           (16) "Traumatic injury" is defined as provided in s.  
22 413.20.

23           Section 4. Section 400.907, Florida Statutes, is  
24 created to read:

25           400.907 License required; fee; display.--

26           (1)(a) It is unlawful to operate or maintain a  
27 facility without first obtaining from the agency a license  
28 authorizing such operation.

29           (b)1. Any person found to be in violation of paragraph  
30 (a) who, upon notification by the agency, fails to apply for a  
31 license within 10 working days after receiving such

1 notification commits a felony of the third degree, punishable  
2 as provided in s. 775.082, s. 775.083, or s. 775.084.

3 2. If the agency determines that an owner is operating  
4 or maintaining a facility without obtaining a license and  
5 determines that a condition exists in the facility that poses  
6 a threat to the health, safety, or welfare of a resident of  
7 the facility, the owner commits neglect as defined in s.  
8 415.102 and is subject to the same actions and penalties  
9 specified in ss. 400.909 and 400.915 for a negligent act  
10 seriously affecting the health, safety, or welfare of a  
11 resident of the facility.

12 (2) Separate licenses are required for facilities  
13 maintained in separate premises, even though operated under  
14 the same management. A separate license is not required for  
15 separate buildings on the same grounds.

16 (3) Any license granted by the agency shall state the  
17 maximum licensed resident capacity of the facility, whether  
18 the facility is accredited to serve brain-injured persons or  
19 spinal-cord-injured persons, or both, the date the license was  
20 issued, the expiration date of the license, and any other  
21 information deemed necessary by the agency.

22 (4) The annual license fee for a facility is \$3,000  
23 per license, with an additional fee of \$50 per resident based  
24 on the total licensed resident capacity of the facility. No  
25 part of either fee is refundable.

26 (5) The license shall be displayed in a conspicuous  
27 place inside the facility.

28 (6) A license shall be valid only in the possession of  
29 the individual, firm, partnership, association, or corporation  
30 to which it was issued and shall not be subject to sale,  
31 assignment, or other transfer, voluntary or involuntary; nor

1 shall a license be valid for any premises other than that for  
2 which it was originally issued.

3 (7) For the purpose of any activity regulated under  
4 this part in which a licensed facility participates in excess  
5 of the authority granted under the facility's particular  
6 license, the facility shall be considered unlicensed.

7 Section 5. Section 400.908, Florida Statutes, is  
8 created to read:

9 400.908 Sale or transfer of ownership of a  
10 facility.--It is the intent of the Legislature to protect the  
11 rights of the residents of a facility when the facility is  
12 sold or the ownership thereof is transferred. Therefore,  
13 whenever a facility is sold or the ownership thereof is  
14 transferred, including any transfer by lease:

15 (1) The transferee shall apply to the agency for a new  
16 license at least 60 days before the date of transfer of  
17 ownership.

18 (2)(a) The transferor shall notify the agency in  
19 writing at least 60 days before the date of transfer of  
20 ownership.

21 (b) The new owner shall notify the residents, in  
22 writing, of the transfer of ownership within 7 days after  
23 receipt of the license.

24 (3) The transferor shall be responsible and liable  
25 for:

26 (a) The lawful operation of the facility and the  
27 welfare of the residents domiciled in the facility, until the  
28 date the transferee is licensed by the agency.

29 (b) Any and all penalties imposed against the facility  
30 for violations occurring before the date of the transfer of  
31 ownership, unless the penalty imposed is a moratorium on



1 admissions or denial of licensure. A moratorium on admissions  
2 or denial of licensure remains in effect after the transfer of  
3 ownership, unless the agency has approved the transferee's  
4 corrective action plan or the conditions that created the  
5 moratorium or denial have been corrected, and may be grounds  
6 for denial of license to the transferee in accordance with  
7 chapter 120.

8 (c) Any outstanding liability to the state, unless the  
9 transferee has agreed, as a condition of sale or transfer, to  
10 accept the outstanding liabilities and to guarantee payment  
11 therefor; except that, if the transferee fails to meet these  
12 obligations, the transferor shall remain liable for the  
13 outstanding liability.

14 (4) The transferor of a facility the license of which  
15 is denied pending an administrative hearing shall, as a part  
16 of the written transfer-of-ownership contract, advise the  
17 transferee that a corrective action plan must be submitted by  
18 the transferee and approved by the agency at least 7 days  
19 before the transfer of ownership and that failure to correct  
20 the condition which resulted in the moratorium on admissions  
21 or denial of licensure is grounds for denial of the  
22 transferee's license.

23 (5) The transferee must provide the agency with a copy  
24 of the record warranty deed or lease agreement before a  
25 license may be issued.

26 Section 6. Section 400.909, Florida Statutes, is  
27 created to read:

28 400.909 Denial, revocation, or suspension of license;  
29 administrative fine.--

30 (1) The agency may deny, revoke, or suspend a license  
31 issued under this part or impose an administrative fine in the

1 manner provided in chapter 120. At the chapter 120 hearing,  
2 the agency shall prove by a preponderance of the evidence that  
3 its actions are warranted.

4 (2) Any of the following actions by a facility or any  
5 employee shall be grounds for action by the agency against a  
6 licensee:

7 (a) An intentional or negligent act seriously  
8 affecting the health, safety, or welfare of a resident of the  
9 facility.

10 (b) The determination by the agency, pursuant to the  
11 information obtained through this part, that the facility  
12 owner or administrator is not of suitable character or  
13 competency, or that the owner lacks the financial ability, to  
14 provide continuing adequate care to residents.

15 (c) Misappropriation or conversion of the property of  
16 a resident of the facility.

17 (d) Five or more repeated or recurring identical or  
18 similar class III violations of this part that have been  
19 identified by the agency within the last 18 months and that,  
20 in the aggregate, affect the health, safety, or welfare of the  
21 facility residents.

22 (e) A confirmed report of adult abuse, neglect, or  
23 exploitation, as defined in s. 415.102, that has been upheld  
24 following a chapter 120 hearing or a waiver of such  
25 proceedings where the perpetrator is an employee, volunteer,  
26 administrator, or owner, or otherwise has access to the  
27 residents of a facility, and the administrator has not taken  
28 action to remove the perpetrator. Exemptions from  
29 disqualification may be granted as set forth in s. 435.07. No  
30 administrative action may be taken against the facility if the  
31 perpetrator has been granted an exemption.

1       (f) Violation of a moratorium.

2       (g) Failure of the licensee during relicensure, or  
3 failure of a licensee who holds an initial license, or who  
4 holds a license through a transfer of ownership, to meet  
5 minimum license standards or the requirements of rules adopted  
6 under this part.

7       (h) A fraudulent statement on an application for a  
8 license or any other signed and notarized document required by  
9 the agency.

10       (i) A false representation or omission of any material  
11 fact in making an application for licensure, including  
12 submission of an application that conceals the controlling or  
13 ownership interest of any officer, director, agent, managing  
14 employee, affiliated person, partner, or shareholder who may  
15 not be eligible for licensure.

16       (j) Having been found by any licensing, certifying, or  
17 professional standards board or agency to have violated the  
18 standards or conditions relating to licensure or certification  
19 or the quality of services provided.

20       (k) Being currently excluded, suspended, or terminated  
21 from, or having involuntarily withdrawn from, participation in  
22 Florida's Medicaid program or any other state's Medicaid  
23 program, or participation in the Medicare program or any other  
24 governmental or private health care or health insurance  
25 program.

26       (3) The agency may deny a license to an applicant who  
27 owns 5 percent or more of, or operates, a facility that has  
28 had a license denied, suspended, or revoked pursuant to  
29 subsection (2) or, during the 2 years immediately prior to the  
30 application for licensure, has had a moratorium imposed on  
31 admissions, has had an injunctive proceeding initiated against

1 it, has had a receiver appointed, was closed due to financial  
2 inability to operate, or has had an outstanding fine assessed  
3 under this part.

4 (4) An action taken by the agency to suspend, deny, or  
5 revoke a facility's license under this part, in which the  
6 agency claims that the facility owner or an employee has  
7 threatened the health, safety, or welfare of a resident of the  
8 facility, shall be heard by the Division of Administrative  
9 Hearings of the Department of Administration within 120 days  
10 after receipt of the facility's request for a hearing, unless  
11 that time period is waived by both parties.

12 Section 7. Section 400.910, Florida Statutes, is  
13 created to read:

14 400.910 Moratorium on admissions.--The agency may  
15 impose an immediate moratorium on admissions to any facility  
16 when the agency determines that any condition in the facility  
17 presents a threat to the health, safety, or welfare of the  
18 residents in the facility. A facility whose license is denied,  
19 revoked, or suspended as a result of a violation of s. 400.909  
20 may be subject to immediate imposition of a moratorium on  
21 admissions to run concurrently with licensure denial,  
22 revocation, or suspension.

23 Section 8. Section 400.911, Florida Statutes, is  
24 created to read:

25 400.911 Initial license application.--

26 (1) Application for licensure shall be made to the  
27 agency on forms furnished by it and shall be accompanied by  
28 the appropriate license fee. The application shall contain  
29 sufficient information, as required by rule, to establish that  
30 the applicant can provide adequate care.

31

1           (2) The application shall be under oath and shall  
2 contain the following:

3           (a) The name, address, date of birth, and social  
4 security number of the applicant and the name by which the  
5 facility is to be known. Pursuant thereto:

6           1. If the applicant is a firm, partnership, or  
7 association, the application shall contain the name, address,  
8 date of birth, and social security number of every member  
9 thereof.

10           2. If the applicant is a corporation, the application  
11 shall contain its name and address, the name, address, date of  
12 birth, and social security number of each of its directors and  
13 officers, and the name and address of each person having at  
14 least a 5-percent interest in the corporation.

15           (b) The name and address of any professional service,  
16 firm, association, partnership, or corporation that is to  
17 provide goods, leases, or services to the facility for which  
18 the application is made, if a 10-percent or greater interest  
19 in the service, firm, association, partnership, or corporation  
20 is owned by a person whose name must be listed on the  
21 application under paragraph (a).

22           (c) Information that provides a source to establish  
23 the good moral character, financial stability, and competency  
24 of the applicant and of each person specified in the  
25 application under subparagraph (a)1. or subparagraph (a)2. who  
26 has at least a 5-percent interest in the firm, partnership,  
27 association, or corporation and, if applicable, of the  
28 administrator, including the name and address of any long-term  
29 care facility with which the applicant or administrator has  
30 been affiliated through ownership or employment within 5 years  
31 of the date of the application; and a signed affidavit

1 disclosing any financial ownership interest that the applicant  
2 or any principal, partner, or shareholder thereof holds or has  
3 held within the last 5 years in any other facility licensed  
4 under this part, or in any other entity licensed by the state  
5 or another state to provide health or residential care, which  
6 facility or entity closed or ceased to operate as a result of  
7 financial problems.

8 (d) The names and addresses of other persons of whom  
9 the agency may inquire as to the character and reputation of  
10 the applicant and, if applicable, of the administrator.

11 (e) Information relating to the applicant or, if  
12 applicable, to the administrator pertaining to any arrest for,  
13 or adjudication or conviction of, a crime that relates to  
14 providing care in a facility or the ability to operate a  
15 facility.

16 (f) The names and addresses of other persons of whom  
17 the agency may inquire as to the financial responsibility of  
18 the applicant.

19 (g) Identification of all other homes or facilities,  
20 including the addresses and the license or licenses under  
21 which they operate, if applicable, that are operated by the  
22 applicant and that provide housing, meals, and personal  
23 services to adults.

24 (h) Such other reasonable information as may be  
25 required by the agency to evaluate the ability of the  
26 applicant to meet the responsibilities imposed under this  
27 part.

28 (i) The location of the facility for which a license  
29 is sought and documentation, signed by the appropriate local  
30 government official, stating that the applicant has met local  
31 zoning requirements.

1       (j) The name, address, date of birth, social security  
2 number, education, and experience of the administrator.

3       (3) The applicant shall furnish satisfactory proof of  
4 financial ability to operate the facility in accordance with  
5 the requirements of this part. An applicant applying for an  
6 initial license shall submit a balance sheet setting forth the  
7 assets and liabilities of the owner and a statement projecting  
8 revenues, expenses, taxes, extraordinary items, and other  
9 credits or charges for the first 12 months of operation of the  
10 facility.

11       (4)(a) As used in this subsection, the term:

12       1. "Applicant" means an individual applicant, or any  
13 officer, director, agent, managing employee, or affiliated  
14 person, or any partner or shareholder having an ownership  
15 interest equal to 5 percent or greater in the corporation,  
16 partnership, or other business entity.

17       2. "Managing employee" means the administrator or  
18 other similarly titled individual responsible for the daily  
19 operation of the facility.

20       3. "Affiliated person" means any person who directly  
21 or indirectly manages, controls, or oversees the operation of  
22 a corporation or other business entity that is a licensee,  
23 regardless of whether such person is a partner, shareholder,  
24 owner, officer, director, agent, or employee of the entity.

25       (b) Upon receipt of a completed, signed, and dated  
26 application, the agency shall require background screening  
27 using the level 2 standards for screening set forth in chapter  
28 435, for the applicant.

29       (c) Such background screening shall require each  
30 applicant to submit to the Department of Law Enforcement the  
31 information necessary, including a full set of fingerprints,

1 to enable a criminal background investigation to be conducted  
2 for a state criminal and juvenile history records check. The  
3 Department of Law Enforcement shall forward the fingerprints  
4 to the Federal Bureau of Investigation for a national criminal  
5 history records check. Upon completion of the state and  
6 national criminal history records checks, the Department of  
7 Law Enforcement shall report the findings to the agency. The  
8 actual cost of such state and national criminal history  
9 records checks shall be borne by the applicant.

10 (d) Such background screening shall also require each  
11 applicant to submit to the Department of Children and Family  
12 Services a complete set of information necessary to conduct  
13 records checks through the department's central abuse  
14 registry. The actual costs of searching the department's  
15 central abuse registry shall be borne by the applicant.

16 (e) A license shall not be granted to any applicant  
17 who has been found guilty of, regardless of adjudication, or  
18 entered a plea of nolo contendere or guilty to, any offense  
19 prohibited under the level 2 standards of chapter 435. A  
20 license shall not be granted to any applicant having a  
21 confirmed report of abuse, neglect, or exploitation as defined  
22 in s. 415.102(6) that has been uncontested or upheld under s.  
23 415.1075, or having a proposed confirmed report that remains  
24 unserved and is maintained in the central abuse registry and  
25 tracking system pursuant to s. 415.1065(2)(c).

26 (f) The agency shall also require every applicant, as  
27 a condition of license application, to submit information  
28 concerning any prior violation, fine, suspension, termination,  
29 or other administrative action taken under the laws, rules, or  
30 regulations of any regulatory body of this state or of any  
31 other state or the Federal Government; and any prior violation



1 of the laws, rules, or regulations relating to the Medicaid or  
2 Medicare programs.

3 (g) The agency may deny licensure to any applicant  
4 who:

5 1. Made a false representation or omission of any  
6 material fact in making the application, including the  
7 submission of an application that conceals the controlling or  
8 ownership interest of any officer, director, agent, managing  
9 employee, affiliated person, partner, or shareholder who may  
10 not be eligible for licensure.

11 2. Has been found by any licensing, certifying, or  
12 professional standards board or agency to have violated the  
13 standards or conditions relating to licensure or certification  
14 or the quality of services provided.

15 3. Has been or is currently excluded, suspended, or  
16 terminated from, or has involuntarily withdrawn from,  
17 participation in Florida's Medicaid program or any other  
18 state's Medicaid program, or participation in the Medicare  
19 program or any other governmental or private health care or  
20 health insurance program.

21 (h) Upon licensure renewal, each applicant must submit  
22 to the agency, under penalty of perjury, an affidavit of  
23 compliance with the background screening provisions of this  
24 section.

25 (i) Proof of compliance with the level 2 background  
26 screening requirements of chapter 435 submitted within the  
27 previous 5 years to fulfill any other Florida health care  
28 licensure requirements shall be accepted to fulfill the  
29 requirements of the Department of Law Enforcement and  
30 Department of Children and Family Services background check,  
31 provided that such proof of compliance is accompanied, under

1 penalty of perjury, by an affidavit of compliance with these  
2 background screening provisions.

3 (5) The applicant shall provide proof of liability  
4 insurance.

5 (6) No county or municipality shall issue an  
6 occupational license which is being obtained for the purpose  
7 of operating a facility regulated under this part without  
8 first determining that the applicant has been licensed by the  
9 agency to operate such facility at the specified location or  
10 locations. The agency shall furnish to the local agencies  
11 responsible for issuing occupational licenses sufficient  
12 instruction for making such determinations.

13 Section 9. Section 400.912, Florida Statutes, is  
14 created to read:

15 400.912 Expiration of license; renewal; conditional  
16 license.--

17 (1) Licenses issued for the operation of a facility,  
18 unless sooner suspended or revoked, shall expire automatically  
19 1 year after the date of issuance. The agency shall notify the  
20 facility by certified mail 120 days before the expiration of  
21 the license that relicensure is necessary to continue  
22 operation. Ninety days before the expiration date, an  
23 application for renewal must be submitted to the agency. A  
24 license shall be renewed by filing an application on forms  
25 furnished by the agency, if the applicant has first met the  
26 requirements established under this part and all rules adopted  
27 under this part. The failure to file a timely application  
28 shall result in a late fee charged to the facility in an  
29 amount equal to 50 percent of the fee in effect on the last  
30 preceding regular renewal date. Late fees shall be deposited  
31 into the Health Care Trust Fund as provided in s. 400.914. The

1 facility shall file with the application satisfactory proof of  
2 ability to operate the facility in accordance with the  
3 requirements of this part. An applicant for renewal of a  
4 license who has complied on the initial license application  
5 with the provisions of s. 400.911 with respect to proof of  
6 financial ability to operate shall not be required to provide  
7 proof of financial ability on renewal applications, unless the  
8 facility or any other facility owned or operated in whole or  
9 in part by the same person or business entity has demonstrated  
10 financial instability as evidenced by bad checks, delinquent  
11 accounts, or nonpayment of withholding taxes, utility  
12 expenses, or other essential services or unless the agency  
13 suspects that the facility is not financially stable as a  
14 result of review or inspection. Each facility shall report to  
15 the agency any adverse court action concerning the facility's  
16 financial viability within 7 days after its occurrence. The  
17 agency shall have access to books, records, and any other  
18 financial documents maintained by the facility to the extent  
19 necessary to carry out the purpose of this section. A license  
20 for the operation of a facility shall not be renewed if the  
21 licensee has any outstanding fines assessed pursuant to this  
22 part that are in final order status.

23 (2) Upon application for renewal of a license, the  
24 applicant must submit to the agency, under penalty of perjury,  
25 an affidavit of compliance with the background screening  
26 provisions of this part. Proof of compliance with the level 2  
27 background screening requirements of chapter 435 submitted  
28 within the previous 5 years to fulfill any other Florida  
29 health care licensure requirements shall be accepted to  
30 fulfill the requirements of the Department of Law Enforcement  
31 and Department of Children and Family Services background

1 check, provided that such proof of compliance is accompanied,  
2 under penalty of perjury, by an affidavit of compliance with  
3 these background screening provisions.

4 (3) A licensee against whom a revocation or suspension  
5 proceeding is pending at the time of license renewal may be  
6 issued a conditional license effective until final disposition  
7 by the agency of such proceeding. If judicial relief is sought  
8 from the final disposition, the court having jurisdiction may  
9 issue a conditional license for the duration of the judicial  
10 proceeding.

11 (4) A conditional license may be issued to an  
12 applicant for license renewal when the applicant fails to meet  
13 a standard or requirement for licensure. A conditional license  
14 issued under this subsection shall be limited in duration to a  
15 specified period not to exceed 6 months, as determined by the  
16 agency, and shall be accompanied by an approved corrective  
17 action plan.

18 Section 10. Section 400.913, Florida Statutes, is  
19 created to read:

20 400.913 Reports of abuse in facilities.--When an  
21 employee, volunteer, administrator, or owner of a facility has  
22 a confirmed report of adult abuse, neglect, or exploitation,  
23 as defined in s. 415.102 and the protective investigator knows  
24 that the individual is an employee, volunteer, administrator,  
25 or owner of a facility, the agency shall be notified of the  
26 confirmed report.

27 Section 11. Section 400.914, Florida Statutes, is  
28 created to read:

29 400.914 Disposition of fees and administrative  
30 fines.--

31

1       (1) Income from license fees, late fees, and  
2 administrative fines generated pursuant to ss. 400.907,  
3 400.909, 400.912, 400.915, 400.916, 400.926, and 400.927 shall  
4 be deposited in the Health Care Trust Fund administered by the  
5 agency. Such funds shall be directed to and used by the agency  
6 for the following purposes:

7       (a) Up to 50 percent of the trust funds accrued each  
8 fiscal year under this part may be used to offset the expenses  
9 of receivership, pursuant to s. 400.919, if the court  
10 determines that the income and assets of the facility are  
11 insufficient to provide for adequate management and operation.

12       (b) The balance of trust funds accrued each year under  
13 this part shall be used to offset the cost of the licensure  
14 program, including the cost of verifying information  
15 submitted, and conducting inspections and monitoring visits  
16 pursuant to this part and part II of chapter 413.

17       (2) Income from fees generated pursuant to s.  
18 400.928(3) shall be deposited in the Health Care Trust Fund  
19 and used to offset the costs of printing and postage.

20       Section 12. Section 400.915, Florida Statutes, is  
21 created to read:

22       400.915 Violations; penalties.--

23       (1)(a) If the agency determines that a facility is not  
24 in compliance with minimum standards or the requirements of  
25 rules adopted under this part, including the failure to report  
26 evidence of the facility's financial instability or the  
27 operation of a facility without a license, the agency, as an  
28 alternative to or in conjunction with an administrative action  
29 against the facility and prior to written notification  
30 thereof, shall make a reasonable attempt to discuss each  
31 violation with the facility owner or administrator and

1 recommended corrective action. The agency, instead of fixing a  
2 period within which the facility must enter into compliance  
3 with the standards and rules, may request a corrective action  
4 plan from the facility, that demonstrates a good-faith effort  
5 to remedy each violation by a specified date, subject to the  
6 approval of the agency.

7 (b) Any facility owner or administrator found in  
8 violation of this part, including any individual operating a  
9 facility without a license, is subject to a civil penalty to  
10 be imposed by the agency pursuant to this section.

11 (c) Each day during which any person violates any  
12 provision of this part after the date fixed for termination of  
13 the violation by applicable statute, rule, or order of the  
14 agency constitutes an additional, separate, and distinct  
15 violation.

16 (d) Any action taken to correct a violation shall be  
17 documented in writing by the administrator and verified  
18 through subsequent visits by designated agency personnel. The  
19 agency may impose a civil penalty pursuant to this section  
20 and, in the case of an owner-operated facility, revoke a  
21 facility's license when an administrator fraudulently  
22 misrepresents action taken to correct a violation.

23 (e) If a facility desires to appeal any agency action  
24 imposing a civil penalty under this section, it must send a  
25 written request for a hearing to the agency within 15 days  
26 after receipt by certified mail of the notice of the agency  
27 action. If the civil penalty is upheld, the facility shall pay  
28 the fine, plus interest at the legal rate as specified in s.  
29 687.01, for each day beyond the date set by the agency for  
30 payment of the fine.

31

1           (2) In determining if a penalty is to be imposed and  
2 in fixing the amount of the penalty, if any, for a violation,  
3 the agency shall consider the following factors:

4           (a) The gravity of the violation, including the  
5 probability that death or serious physical or emotional harm  
6 to a resident will result or has resulted, the severity of the  
7 action or potential harm, and the extent to which the  
8 provisions of the applicable statutes or rules were violated.

9           (b) Actions taken by the owner or administrator to  
10 correct violations.

11           (c) Any previous violations.

12           (d) The financial benefit to the facility of  
13 committing or continuing the violation.

14           (e) The licensed resident capacity of the facility.

15           (3) Each violation shall be classified according to  
16 the nature of the violation and the gravity of its probable  
17 effect on the residents of the facility. The agency shall  
18 indicate the classification of each violation on the face of  
19 the notice of the violation, as follows:

20           (a) Class I violations are those conditions or  
21 occurrences related to the operation and maintenance of a  
22 facility or to the personal care of residents that the agency  
23 determines present an imminent danger to the residents or  
24 guests of the facility or a substantial probability that death  
25 or serious physical or emotional harm would result therefrom.  
26 The condition or practice constituting a class I violation  
27 shall be abated or eliminated within 24 hours, unless a fixed  
28 period, as determined by the agency, is required for  
29 correction. A class I violation is subject to a civil penalty  
30 of not less than \$1,000 and not exceeding \$5,000 for each  
31

1 violation. The penalty may be imposed notwithstanding the  
2 correction of the violation.

3 (b) Class II violations are those conditions or  
4 occurrences related to the operation and maintenance of a  
5 facility or to the personal care of residents that the agency  
6 determines directly threaten the physical or emotional health,  
7 safety, or security of the residents, other than class I  
8 violations. A class II violation is subject to a civil penalty  
9 of not less than \$500 and not exceeding \$1,000 for each  
10 violation. A citation for a class II violation shall specify  
11 the time within which the violation must be corrected. If a  
12 class II violation is corrected within the time specified, no  
13 penalty may be imposed, unless it is a repeated offense.

14 (c) Class III violations are those conditions or  
15 occurrences related to the operation and maintenance of a  
16 facility or to the personal care of residents that the agency  
17 determines indirectly or potentially threaten the physical or  
18 emotional health, safety, or security of the residents, other  
19 than class I or class II violations. A class III violation is  
20 subject to a civil penalty of not less than \$100 and not  
21 exceeding \$500 for each violation. A citation for a class III  
22 violation shall specify the time within which the violation  
23 must be corrected. If a class III violation is corrected  
24 within the time specified, no penalty may be imposed, unless  
25 it is a repeated offense.

26 (d) Class IV violations are those conditions or  
27 occurrences related to the operation and maintenance of a  
28 building, or to required reports, forms, or documents, that do  
29 not have the potential to negatively affect residents. These  
30 violations are of a type that the agency determines do not  
31 threaten the health, safety, or security of the residents of



1 the facility. A facility that does not correct a class IV  
2 violation within the time limit specified in the  
3 agency-approved corrective action plan is subject to a civil  
4 penalty of not less than \$50 and not exceeding \$200 for each  
5 violation. Any class IV violation that is corrected during the  
6 survey will be identified as an agency finding and not as a  
7 violation.

8 (4) The agency may impose a fine not to exceed \$500  
9 for each violation that cannot be classified according to  
10 subsection (3). In no event may such fines in the aggregate  
11 exceed \$5,000.

12 (5) Civil penalties paid by any facility under the  
13 provisions of subsections (3) and (4) shall be deposited into  
14 the Health Care Trust Fund and expended as provided in s.  
15 400.914.

16 (6) The agency shall develop and disseminate an annual  
17 list of all facilities sanctioned or fined in excess of \$500  
18 for violations of this part, the number and class of  
19 violations involved, the penalties imposed, and the current  
20 status of cases. The list shall be forwarded, at no charge, to  
21 the division. The agency may charge a fee commensurate with  
22 the cost of printing and postage to other interested parties  
23 requesting a copy of this list.

24 Section 13. Section 400.916, Florida Statutes, is  
25 created to read:

26 400.916 Rebates prohibited; penalties.--

27 (1) It is unlawful for any facility licensed under  
28 this part to contract or promise to pay or receive any  
29 commission, bonus, kickback, or rebate or engage in any  
30 split-fee arrangement in any form whatsoever with any  
31 physician, surgeon, organization, agency, or person, either

1 directly or indirectly, for residents referred to a facility  
2 licensed under this part. A facility may employ or contract  
3 with persons to market the facility, provided the employee or  
4 contract provider clearly indicates that such person  
5 represents the facility. A person or agent independent of the  
6 facility may provide placement or referral services for a fee  
7 to individuals seeking assistance in finding a suitable  
8 facility, provided that any fee paid for placement or referral  
9 services is paid by the individual looking for a facility, not  
10 by the facility.

11 (2) The agency, in consultation with the division,  
12 shall adopt rules which impose administrative penalties for  
13 acts prohibited by subsection (1).

14 Section 14. Section 400.917, Florida Statutes, is  
15 created to read:

16 400.917 Certain solicitation prohibited; third-party  
17 supplementation.--

18 (1) No person shall, in connection with the  
19 solicitation of contributions by or on behalf of a facility,  
20 misrepresent or mislead any person, by any manner, means,  
21 practice, or device whatsoever, to believe that the receipts  
22 of such solicitation will be used for charitable purposes, if  
23 that is not the fact.

24 (2) Solicitation of contributions of any kind in a  
25 threatening, coercive, or unduly forceful manner by or on  
26 behalf of a facility by any agent, employee, owner, or  
27 representative of any facility is grounds for denial,  
28 suspension, or revocation of the license of the facility by or  
29 on whose behalf contributions were solicited.

30 (3) The admissions or maintenance of facility  
31 residents whose care is supported, in whole or in part, by

1 state funds may not be conditioned upon the receipt of any  
2 manner of contribution or donation from any person. The  
3 solicitation or receipt of contributions in violation of this  
4 subsection is grounds for denial, suspension, or revocation of  
5 license, as provided in s. 400.909, for any facility by or  
6 whose behalf such contributions were solicited.

7 (4) A facility may accept additional supplementation  
8 from third parties on behalf of residents receiving optional  
9 state supplementation in accordance with s. 409.212.

10 Section 15. Section 400.918, Florida Statutes, is  
11 created to read:

12 400.918 Injunctive proceedings.--

13 (1) The agency may institute injunctive proceedings in  
14 a court of competent jurisdiction to:

15 (a) Enforce the provisions of this part or any minimum  
16 standard, rule, or order issued or entered into pursuant  
17 thereto when the attempt by the agency to correct a violation  
18 through administrative fines has failed or when the violation  
19 materially affects the health, safety, or welfare of  
20 residents; or

21 (b) Terminate the operation of a facility when  
22 violations of any provision of this part or of any standard or  
23 rule adopted pursuant thereto exist which materially affect  
24 the health, safety, or welfare, of residents.

25 (2) Such injunctive relief may be temporary or  
26 permanent.

27 (3) The Legislature recognizes that, in some  
28 instances, action is necessary to protect residents of  
29 facilities from immediate, life-threatening situations. In  
30 such cases, the court may allow a temporary injunction without  
31 bond or proper proof being made. If it appears by competent

1 evidence or a sworn substantiated affidavit that a temporary  
2 injunction should issue, the court, pending the determination  
3 on final hearing, shall enjoin operation of the facility.

4 Section 16. Section 400.919, Florida Statutes, is  
5 created to read:

6 400.919 Receivership proceeding.--

7 (1) As an alternative to or in conjunction with an  
8 injunctive proceeding, the agency may petition a court of  
9 competent jurisdiction for the appointment of a receiver, if  
10 suitable alternative placements are not available, when any of  
11 the following conditions exist:

12 (a) The facility is operating without a license and  
13 refuses to make application for a license as required by s.  
14 400.907.

15 (b) The facility is closing or has informed the agency  
16 that it intends to close, and adequate arrangements have not  
17 been made for relocation of the residents within 7 days,  
18 exclusive of weekends and holidays, of the closing of the  
19 facility.

20 (c) The agency determines there exist in the facility  
21 conditions that present an imminent danger to the health,  
22 safety, or welfare of the residents or a substantial  
23 probability that death or serious physical harm would result  
24 therefrom.

25 (d) The facility cannot meet its financial obligation  
26 for providing food, shelter, care, and utilities.

27 (2) Petitions for receivership shall take precedence  
28 over the other court business, unless the court determines  
29 that some other pending proceeding, having similar statutory  
30 precedence, shall have priority. A hearing shall be conducted  
31 within 5 days after the filing of the petition, at which time

1 all interested parties shall have the opportunity to present  
2 evidence pertaining to the petition. The agency shall notify,  
3 by certified mail, the owner or administrator of the facility  
4 named in the petition and the facility residents or, if  
5 applicable, the residents' representatives or designees, or  
6 the residents' surrogates, guardians, or attorneys in fact, of  
7 its filing, the substance of the violation, and the date and  
8 place set for the hearing. The court shall grant the petition  
9 only upon finding that the health, safety, or welfare of  
10 residents would be threatened if a condition existing at the  
11 time the petition was filed is permitted to continue. A  
12 receiver shall not be appointed ex parte, unless the court  
13 determines that one or more of the conditions in subsection  
14 (1) exist; the facility owner or administrator cannot be  
15 found; all reasonable means of locating the owner or  
16 administrator and notifying him or her of the petition and  
17 hearing have been exhausted; or the owner or administrator,  
18 after notification of the hearing, chooses not to attend.  
19 After such findings, the court may appoint any qualified  
20 person as a receiver, except it may not appoint any owner or  
21 affiliate of the facility that is in receivership. The  
22 receiver may be selected from a list of persons qualified to  
23 act as receivers developed by the agency and presented to the  
24 court with each petition for receivership. The agency or  
25 designated agency employee may be appointed as a receiver for  
26 up to 60 days. The court may grant a 30-day extension upon a  
27 showing of good cause.

28 (3) The receiver must make provision for the continued  
29 health, safety, and welfare of all residents of the facility  
30 and:  
31

1       (a) Shall exercise those powers and perform those  
2 duties set out by the court.

3       (b) Shall operate the facility in such a manner as to  
4 assure safety and adequate health care for the residents.

5       (c) Shall take such actions as are reasonably  
6 necessary to protect or conserve the assets or property of the  
7 facility for which the receiver is appointed, or the proceeds  
8 from any transfer thereof, and may use them only in the  
9 performance of the powers and duties set forth in this section  
10 and by order of the court.

11       (d) May use the building, fixtures, furnishings, and  
12 any accompanying consumable goods in the provision of care and  
13 services to residents and to any other persons receiving  
14 services from the facility at the time the petition for  
15 receivership was filed. The receiver shall collect payments  
16 for all goods and services provided to residents or others  
17 during the period of the receivership at the same rate of  
18 payment charged by the owner at the time the petition for  
19 receivership was filed, or at a fair and reasonable rate  
20 otherwise approved by the court.

21       (e) May correct or eliminate any deficiency in the  
22 structure or furnishings of the facility that endangers the  
23 safety or health of residents while they remain in the  
24 facility, if the total cost of correction does not exceed  
25 \$10,000. The court may order expenditures for this purpose in  
26 excess of \$10,000 on application from the receiver after  
27 notice to the owner and a hearing.

28       (f) May let contracts and hire agents and employees to  
29 carry out the powers and duties of the receiver.

30       (g) Shall honor all leases, mortgages, and secured  
31 transactions governing the building in which the facility is

1 located and all goods and fixtures in the building of which  
2 the receiver has taken possession, but only to the extent of  
3 payments which, in the case of a rental agreement, are for the  
4 use of the property during the period of the receivership, or  
5 which, in the case of a purchase agreement, become due during  
6 the period of the receivership.

7 (h) Shall have full power to direct and manage the  
8 facility and to discharge employees of the facility, subject  
9 to any contract rights they may have. The receiver shall pay  
10 employees at the rate of compensation, including benefits,  
11 approved by the court. A receivership does not relieve the  
12 owner of any obligation to employees made prior to the  
13 appointment of a receiver and not carried out by the receiver.

14 (i) Shall be entitled to and take possession of all  
15 property or assets of residents which are in the possession of  
16 a facility or its owner. The receiver shall preserve all  
17 property, assets, and records of residents of which the  
18 receiver takes possession and shall provide for the prompt  
19 transfer of the property, assets, and records to the new  
20 placement of any transferred resident. An inventory list  
21 certified by the owner and receiver shall be made immediately  
22 at the time the receiver takes possession of the facility.

23 (4)(a) A person who is served with notice of an order  
24 of the court appointing a receiver and of the receiver's name  
25 and address shall be liable to pay the receiver for any goods  
26 or services provided by the receiver after the date of the  
27 order, if the person would have been liable for the goods or  
28 services as supplied by the owner. The receiver shall give a  
29 receipt for each payment and shall keep a copy of each receipt  
30 on file. The receiver shall deposit accounts received in a  
31

1 separate account and shall use this account for all  
2 disbursements.

3 (b) The receiver may bring an action to enforce the  
4 liability created by paragraph (a).

5 (c) A payment to the receiver of any sum owing to the  
6 facility or its owner shall discharge any obligation to the  
7 facility to the extent of the payment.

8 (5)(a) A receiver may petition the court that the  
9 receiver not be required to honor any lease, mortgage, secured  
10 transaction, or other wholly or partially executory contract  
11 entered into by the owner if the rent, price, or rate of  
12 interest required to be paid under the agreement was  
13 substantially in excess of a reasonable rent, price, or rate  
14 of interest at the time the contract was entered into, or if  
15 any material provision of the agreement was unreasonable, when  
16 compared to contracts negotiated under similar conditions. Any  
17 relief in this form provided by the court shall be limited to  
18 the life of the receivership, unless otherwise determined by  
19 the court.

20 (b) If the receiver is in possession of real estate or  
21 goods subject to a lease, mortgage, or security interest that  
22 the receiver has obtained a court order to avoid under  
23 paragraph (a), and if the real estate or goods are necessary  
24 for the continued operation of the facility under this  
25 section, the receiver may apply to the court to set a  
26 reasonable rental, price, or rate of interest to be paid by  
27 the receiver during the duration of the receivership. The  
28 court shall hold a hearing on the application within 15 days.  
29 The receiver shall send notice of the application to any known  
30 persons who own the property involved at least 10 days prior  
31 to the hearing. Payment by the receiver of the amount



1 determined by the court to be reasonable is a defense to any  
2 action against the receiver for payment or for possession of  
3 the goods or real estate subject to the lease, security  
4 interest, or mortgage involved by any person who received such  
5 notice, but the payment does not relieve the owner of the  
6 facility of any liability for the difference between the  
7 amount paid by the receiver and the amount due under the  
8 original lease, security interest, or mortgage involved.

9 (6) The court shall set the compensation of the  
10 receiver, which shall be considered a necessary expense of a  
11 receivership.

12 (7) A receiver may be held liable in a personal  
13 capacity only for the receiver's own gross negligence,  
14 intentional acts, or breach of fiduciary duty.

15 (8) The court may require a receiver to post a bond.

16 (9) The court may direct the agency to allocate funds  
17 from the Health Care Trust Fund to the receiver, subject to  
18 the provisions of s. 400.914.

19 (10) The court may terminate a receivership when:

20 (a) The court determines that the receivership is no  
21 longer necessary because the conditions that gave rise to the  
22 receivership no longer exist or the agency grants the facility  
23 a new license; or

24 (b) All of the residents in the facility have been  
25 transferred or discharged.

26 (11) Within 30 days after termination, the receiver  
27 shall give the court a complete accounting of all property of  
28 which the receiver has taken possession, all funds collected,  
29 and the expenses of the receivership.

30 (12) Nothing in this section shall be deemed to  
31 relieve any owner, administrator, or employee of a facility

1 placed in receivership of any civil or criminal liability  
2 incurred, or any duty imposed by law, by reason of acts or  
3 omissions of the owner, administrator, or employee prior to  
4 the appointment of a receiver; nor shall anything contained in  
5 this section be construed to suspend during the receivership  
6 any obligation of the owner, administrator, or employee for  
7 the payment of taxes or other operating and maintenance  
8 expenses of the facility or any obligation of the owner,  
9 administrator, employee, or any other person for the payment  
10 of mortgages or liens. The owner shall retain the right to  
11 sell or mortgage any facility under receivership, subject to  
12 approval of the court that ordered the receivership.

13 Section 17. Section 400.920, Florida Statutes, is  
14 created to read:

15 400.920 Contracts.--

16 (1) The presence of each resident in a facility shall  
17 be covered by a contract, executed at the time of admission or  
18 prior thereto, between the licensee and the resident or the  
19 resident's designee or legal representative. Each party to the  
20 contract shall be provided with a duplicate original thereof,  
21 and the licensee shall keep on file in the facility all such  
22 contracts. The licensee shall not destroy or otherwise dispose  
23 of any such contract until 5 years after its expiration or  
24 such longer period as may be provided in rules adopted under  
25 this part.

26 (2) Each contract shall contain express provisions  
27 specifically setting forth the services and accommodations to  
28 be provided by the facility; the rates or charges; provision  
29 for at least 30 days' notice of a rate increase; the rights,  
30 duties, and obligations of the residents, other than those  
31 specified in s. 400.924; and other matters that the parties

1 deem appropriate. Whenever money is deposited or advanced by a  
2 resident in a contract as security for performance of the  
3 contract agreement or as advance rent for other than the next  
4 immediate rental period:

5 (a) Such funds shall be held in a banking institution  
6 in this state. Funds held shall be kept separate from the  
7 funds and property of the facility; shall be deposited in a  
8 bank savings association, trust company, or credit union  
9 located in this state and, if possible, located in the same  
10 district in which the facility is located; shall not be  
11 represented as part of the assets of the facility on financial  
12 statements; and shall be used, or otherwise expended, only for  
13 the account of the resident.

14 (b) The licensee shall, within 30 days after receipt  
15 of advance rent or a security deposit, notify the resident in  
16 writing of the manner in which the licensee is holding the  
17 advance rent or security deposit and state the name and  
18 address of the depository where the moneys are being held. The  
19 licensee shall notify residents of the facility's policy on  
20 advance deposits.

21 (c) If a licensee agrees to reserve a bed for a  
22 resident who is admitted to a medical facility, the resident  
23 or the resident's responsible party shall notify the licensee  
24 of any change in status that would prevent the resident from  
25 returning to the facility. Until such notice is received, the  
26 agreed-upon daily rate may be charged by the licensee.

27 (d) The purpose of any advance payment and a refund  
28 policy for such payment, including any advance payment for  
29 meals, lodging, or personal services, shall be stated in the  
30 contract.

31

1       (3) The contract shall state whether or not the  
2 facility is affiliated with any religious organization and, if  
3 so, which organization and its general responsibility to the  
4 facility.

5       (4) No contract or provision thereof shall be  
6 construed to relieve any licensee of any requirement or  
7 obligation imposed upon it by this part or by standards or  
8 rules in force pursuant thereto.

9       (5) A lease may be substituted for the contract if it  
10 meets the disclosure requirements of this section.

11       Section 18. Section 400.921, Florida Statutes, is  
12 created to read:

13       400.921 Use of licensed personnel.--

14       (1) Persons under contract to the facility, facility  
15 staff, or volunteers, who are licensed according to chapter  
16 464, or those persons exempt under s. 464.022(1), and others  
17 as defined by rule, may administer medications to residents,  
18 take residents' vital signs, manage individual weekly pill  
19 organizers for residents who self-administer medication, give  
20 prepackaged enemas ordered by a physician, observe residents,  
21 document observations on the appropriate resident's record,  
22 report observations to the resident's physician, and contract  
23 or allow residents or a resident's representative, designee,  
24 surrogate, guardian, or attorney in fact to contract with a  
25 third party, provided residents meet the criteria for  
26 appropriate placement as defined in s. 400.922. Nursing  
27 assistants certified pursuant to s. 400.211 may take  
28 residents' vital signs as directed by a licensed nurse or  
29 physician.

30       (2) All staff in facilities licensed under this part  
31 shall exercise their professional responsibility to observe

1 residents, to document observations on the appropriate  
2 resident's record, and to report the observations to the  
3 resident's physician. However, the facility owner or  
4 administrator shall be responsible for determining that the  
5 resident receiving services is appropriate for residence in  
6 the facility.

7 (3) In an emergency situation, licensed personnel may  
8 carry out their professional duties pursuant to chapter 464  
9 until emergency medical personnel assume responsibility for  
10 care.

11 Section 19. Section 400.922, Florida Statutes, is  
12 created to read:

13 400.922 Appropriateness of placements; examination of  
14 residents.--

15 (1) The facility owner or administrator is responsible  
16 for determining the appropriateness of admission of an  
17 individual to the facility and for determining the continued  
18 appropriateness of residence of an individual in the facility.  
19 A determination shall be based upon an assessment of the  
20 strengths, needs, and preferences of the resident, the care  
21 and services offered or arranged for by the facility in  
22 accordance with facility policy, and any limitations in law or  
23 rule related to admission criteria or continued residency for  
24 the type of license held by the facility under this part. A  
25 resident may not be moved from one facility to another without  
26 consultation with and agreement from the resident or, if  
27 applicable, the resident's representative or designee or the  
28 resident's family, guardian, surrogate, or attorney in fact.

29 (2) A physician or nurse practitioner employed by or  
30 under contract with a facility to provide an initial  
31

1 examination for admission purposes may not have a financial  
2 interest in the facility.

3 (3) Persons licensed under chapter 464 who are  
4 employed by or under contract with a facility shall, on a  
5 routine basis or at least monthly, perform a nursing  
6 assessment of the residents for whom they are providing  
7 nursing services ordered by a physician, except administration  
8 of medication, and shall document such assessment, including  
9 any substantial change in a resident's status that may  
10 necessitate relocation to a nursing home, hospital, or  
11 specialized health care facility. Such records shall be  
12 maintained in the facility for inspection by the agency and  
13 shall be forwarded to the resident's case manager, if  
14 applicable.

15 (4) Where possible, each resident shall have been  
16 examined by a licensed physician or a licensed nurse  
17 practitioner within 60 days before admission to the facility.  
18 The signed and completed medical examination report shall be  
19 submitted to the facility owner or administrator, who shall  
20 utilize the information contained in the report to assist in  
21 the determination of the appropriateness of the resident's  
22 admission and continued stay in the facility. The medical  
23 examination report shall become a permanent part of the record  
24 of the resident at the facility and shall be made available to  
25 the agency during inspection or upon request.

26 (5) If a medical examination has not been completed  
27 within 60 days before the admission of the resident, a  
28 licensed physician or licensed nurse practitioner shall  
29 examine the resident and complete a medical examination form  
30 provided by the agency within 30 days following the resident's  
31 admission, to enable the facility owner or administrator to

1 determine the appropriateness of the admission. The medical  
2 examination form shall become a permanent part of the record  
3 of the resident at the facility and shall be made available to  
4 the agency during inspection or upon request.

5 (6) If, at any time after admission, a resident  
6 appears to need care beyond that which the facility is  
7 licensed to provide, the agency shall require the resident to  
8 be physically examined by a licensed physician or licensed  
9 nurse practitioner or evaluated by an appropriate mental  
10 health professional, as defined in s. 394.455(2); such  
11 examination shall, to the extent possible, be performed by the  
12 resident's preferred physician or nurse practitioner or mental  
13 health professional and shall be paid for by the source  
14 funding the resident's stay at the facility. A facility shall  
15 not retain any resident who requires more services or care  
16 than the facility is able to provide in accordance with its  
17 policies and criteria for admission and continued residency.  
18 Any resident determined by such professional examination to be  
19 inappropriately residing in a facility shall be given 30 days'  
20 written notice to relocate by the facility owner or  
21 administrator, unless the resident's continued residence in  
22 the facility presents an imminent danger to the health,  
23 safety, or welfare of the resident or a substantial  
24 probability exists that death or serious physical harm would  
25 result to the resident if allowed to remain in the facility.

26 (7) No resident who requires 24-hour nursing  
27 supervision shall be retained in a facility licensed under  
28 this part.

29 Section 20. Section 400.923, Florida Statutes, is  
30 created to read:

31

1           400.923 Property and personal affairs of residents;  
2 penalty.--

3           (1)(a) A resident shall be given the option of using  
4 his or her own belongings, as space permits; choosing a  
5 roommate; and, whenever possible, unless the resident is  
6 adjudicated incompetent or incapacitated under state law,  
7 managing his or her own affairs.

8           (b) The admission of a resident to a facility and the  
9 resident's presence therein shall not confer on the facility  
10 or its owner, administrator, employees, or representatives any  
11 authority to manage, use, or dispose of any property of the  
12 resident; nor shall such admission or presence confer on any  
13 of such persons any authority or responsibility for the  
14 personal affairs of the resident, except that which may be  
15 necessary for the safe management of the facility or for the  
16 safety of the resident.

17           (2) A facility, or an owner, administrator, employee,  
18 or representative thereof, may not act as the guardian,  
19 trustee, or conservator for any resident or any of such  
20 resident's property.

21           (3) A facility, upon mutual consent with the resident,  
22 shall provide for the safekeeping in the facility of personal  
23 effects not in excess of \$500 and funds of the resident not in  
24 excess of \$200 cash. A facility shall keep complete and  
25 accurate records of all such funds and personal effects  
26 received for safekeeping. When a resident is absent from a  
27 facility for 24 hours or more, the facility may provide for  
28 the safekeeping of the resident's personal effects in excess  
29 of \$500.

30           (4) Any personal funds available to residents may be  
31 used by residents as they choose to obtain clothing, personal



1 items, leisure activities, and other supplies and services for  
2 their personal use. A facility may not demand, require, or  
3 contract for payment of all to any part of the personal funds  
4 in satisfaction of the facility rate for supplies and services  
5 beyond that amount agreed to in writing and may not levy an  
6 additional charge to the resident or the account for any  
7 supplies or services that the facility has agreed by contract  
8 to provide as part of the standard monthly rate. Any  
9 supplemental service or supplies provided by the facility,  
10 which are charged separately to the resident or the account,  
11 may be provided only with the resident's specific advance  
12 approval. An itemized written approval statement shall be  
13 attached to the contract setting forth the charges for the  
14 services or supplies.

15 (5) In addition to any damages or civil penalties to  
16 which a person is subject, any person who:

17 (a) Intentionally withholds a resident's personal  
18 funds or personal property, or who demands, beneficially  
19 receives, or contracts for payment of all or any part of a  
20 resident's personal property in satisfaction of the facility  
21 rate for supplies and services; or

22 (b) Borrows from or pledges any personal funds of a  
23 resident, other than the amount agreed to by written contract  
24 under s. 400.920,

25  
26 commits a misdemeanor of the first degree, punishable as  
27 provided in s. 775.082 or s. 775.083.

28 (6) In the event of the death of a resident, a  
29 licensee shall return all refunds, funds, and property to the  
30 resident's spouse or adult next of kin named in a beneficiary  
31 designation form provided by the facility to the resident. In

1 the event the resident has no spouse or adult next of kin, or  
2 such person cannot be located, funds due the resident shall be  
3 placed in an interest-bearing account and shall be safeguarded  
4 until such time as the funds and property are disbursed  
5 pursuant to the Florida Probate Code. Such funds shall be kept  
6 separate from the funds and property of the facility and other  
7 residents of the facility. In event the funds of the deceased  
8 resident are not disbursed pursuant to the provisions of the  
9 Florida Probate Code within 2 years of the resident's death,  
10 the funds shall be deposited in the Health Care Trust Fund as  
11 provided in s. 400.914.

12 Section 21. Section 400.924, Florida Statutes, is  
13 created to read:

14 400.924 Resident bill of rights.--

15 (1) A resident of a facility shall not be deprived of  
16 any civil or legal rights, benefits, or privileges guaranteed  
17 by law, the State Constitution, or the United States  
18 Constitution as a resident of a facility. Every resident of a  
19 facility shall have the right to:

20 (a) Live in a safe and decent living environment, free  
21 from abuse and neglect.

22 (b) Be treated with consideration and respect and with  
23 due recognition of personal dignity, individuality, and the  
24 need for privacy.

25 (c) Retain and use his or her own clothes and other  
26 personal property in his or her immediate living quarters, so  
27 as to maintain individuality and personal dignity, except when  
28 the facility can demonstrate that this would be unsafe,  
29 impracticable, or an infringement upon the rights of other  
30 residents.

31

1       (d) Unrestricted private communication, including  
2 receiving and sending unopened correspondence, access to a  
3 telephone, and visiting with any person of his or her choice,  
4 at any time between the hours of 9 a.m. and 9 p.m., at a  
5 minimum. Upon request, the facility shall make provisions to  
6 extend visiting hours for caregivers and out-of-town guests.

7       (e) Freedom to participate in and benefit from  
8 community services and activities and to achieve the highest  
9 possible level of independence, autonomy, and interaction,  
10 within the community.

11       (f) Manage his or her financial affairs.

12       (g) Reasonable opportunity for regular exercise  
13 several times a week and to be outdoors at regular and  
14 frequent intervals, except when prevented by inclement  
15 weather.

16       (h) Exercise civil and religious liberties, including  
17 the right to make independent personal decisions. No religious  
18 beliefs or practices, nor any attendance at religious  
19 services, shall be imposed upon any resident.

20       (i) Access to adequate and appropriate health care  
21 consistent with established and recognized standards within  
22 the community.

23       (j) At least 30 days' notice of relocation or  
24 termination of residency from the facility, unless, for  
25 medical reasons, the resident is certified by a physician to  
26 require emergency relocation to a facility providing a more  
27 skilled level of care or the resident engages in a pattern of  
28 conduct that is harmful or offensive to other residents. In  
29 the case of a resident who has been adjudicated mentally  
30 incapacitated, the guardian shall be given at least 30 days'  
31 notice of a nonemergency relocation or residency termination.

1 Reasons for relocation shall be set forth in writing. To  
2 terminate the residency of an individual without the notice  
3 required in this paragraph, the facility must show good cause  
4 in a court of competent jurisdiction.

5 (k) Present grievances and recommend changes in  
6 policies, procedures, and services to the staff of the  
7 facility, governing officials, or any other person without  
8 restraint, interference, coercion, discrimination, or  
9 reprisal. Each facility shall establish a grievance procedure  
10 to facilitate the resident's exercise of this right. This  
11 right includes access to volunteers and advocates and the  
12 right to be a member of, to be active in, and to associate  
13 with advocacy or special interest groups.

14 (2) The administrator of a facility shall ensure that  
15 a written notice of the rights, obligations, and prohibitions  
16 set forth in this part is posted in a prominent place in each  
17 facility and read or explained to residents who cannot read.  
18 This notice shall include the name, address, and telephone  
19 numbers of the central abuse registry, the Advocacy Center for  
20 Persons with Disabilities, Inc., and the district human rights  
21 advocacy committee, where complaints may be lodged. The  
22 facility must ensure a resident's access to a telephone to  
23 call the central abuse registry, the Advocacy Center for  
24 Persons with Disabilities, Inc., and the district human rights  
25 advocacy committee.

26 (3) The facility shall not hinder or prevent residents  
27 from exercising their rights as specified in this section.

28 (4) A facility or employee of a facility may not serve  
29 notice upon a resident to leave the premises or take any other  
30 retaliatory action against any person who:

31 (a) Exercises any right set forth in this section.

1       (b) Appears as witness in any hearing, inside or  
2 outside the facility.

3       (c) Files a civil action alleging a violation of this  
4 part or notifies a state attorney or the Attorney General of a  
5 possible violation.

6  
7 Any facility that terminates the residency of an individual  
8 who participates in any of the activities specified in this  
9 subsection shall show good cause in a court of competent  
10 jurisdiction.

11       (5) Any person who submits or reports a complaint  
12 concerning a suspected violation of this part or concerning  
13 services and conditions in a facility, or who testifies in any  
14 administrative or judicial proceeding arising from such a  
15 complaint, shall have immunity from any civil or criminal  
16 liability therefor, unless such person has acted in bad faith  
17 or with malicious purpose or the court finds that there was a  
18 complete absence of a justiciable issue of either law or fact  
19 raised by the losing party.

20       Section 22. Section 400.925, Florida Statutes, is  
21 created to read:

22       400.925 Civil actions to enforce rights.--Any person  
23 or resident whose rights as specified in this part are  
24 violated shall have a cause of action against any facility  
25 owner, administrator, or staff responsible for the violation.  
26 The action may be brought by the resident or the resident's  
27 guardian, or by a person or organization acting on behalf of a  
28 resident with the consent of the resident or the resident's  
29 guardian, or by the personal representative of the estate of a  
30 deceased resident when the cause or death resulted from a  
31 violation of the decedent's rights, to enforce such rights.

1 The action may be brought in any court of competent  
2 jurisdiction to enforce such rights and to recover actual  
3 damages, and punitive damages when malicious, wanton, or  
4 willful disregard of the rights of others can be shown. Any  
5 plaintiff who prevails in any such action may be entitled to  
6 recover reasonable attorneys fees, costs of the action, and  
7 damages, unless the court finds that the plaintiff has acted  
8 in bad faith, with malicious purpose, and that there was a  
9 complete absence of a justiciable issue of either law or fact.  
10 A prevailing defendant may be entitled to recover reasonable  
11 attorney's fees pursuant to s. 57.105. The remedies provided  
12 in this section are in addition to and cumulative with other  
13 legal and administrative remedies available to a resident or  
14 to the agency.

15 Section 23. Section 400.926, Florida Statutes, is  
16 created to read:

17 400.926 Right of entry and inspection.--Any designated  
18 officer or employee of the agency, or the state or local fire  
19 marshal, shall have the right to enter unannounced upon and  
20 into the premises of any facility licensed pursuant to this  
21 part in order to determine the state of compliance with this  
22 part and the rules or standards in force pursuant thereto. The  
23 right of entry and inspection shall also extend to any  
24 premises that the agency has reason to believe is being  
25 operated or maintained as a facility without a license; but no  
26 such entry or inspection may be made without the permission of  
27 the owner or person in charge thereof, unless a warrant is  
28 first obtained from the circuit court authorizing such entry.  
29 The warrant requirement shall extend only to a facility that  
30 the agency has reason to believe is being operated or  
31 maintained as a facility without a license. Any application

1 for a license or renewal thereof made under this part shall  
2 constitute permission for, and complete acquiescence in, any  
3 entry or inspection of the premises for which the license is  
4 sought, in order to facilitate verification of the information  
5 submitted on or in connection with the application; to  
6 discover, investigate, and determine the existence of abuse or  
7 neglect; or to elicit, receive, respond to, and resolve  
8 complaints. Any current valid license shall constitute  
9 unconditional permission for, and complete acquiescence in,  
10 any entry or inspection of the premises by authorized  
11 personnel. The agency shall retain the right of entry and  
12 inspection of facilities that have had a license revoked or  
13 suspended within the previous 24 months, to ensure that the  
14 facility is not operating unlawfully. However, before entering  
15 the facility, a statement of probable cause must be filed with  
16 the director of the agency, who must approve or disapprove the  
17 action within 48 hours. Probable cause shall include, but is  
18 not limited to, evidence that the facility holds itself out to  
19 the public as a provider of personal assistance services or  
20 the receipt of a complaint by the advisory council on brain  
21 and spinal cord injuries about the facility.

22 Section 24. Section 400.927, Florida Statutes, is  
23 created to read:

24 400.927 Closing of facility; notice; penalty.--  
25 (1) Whenever a facility voluntarily discontinues  
26 operation, it shall inform the agency in writing at least 90  
27 days before discontinuing the operation. The facility shall  
28 also inform each resident, next of kin, or legal  
29 representative of the fact and the proposed time of such  
30 discontinuance, following the notification requirements  
31 provided in s. 400.924(1)(j). In the event a resident has no

1 person to represent him or her, the facility shall be  
2 responsible for referral to an appropriate social service  
3 agency for placement.

4 (2) All charges shall be prorated as of the date on  
5 which the facility discontinues operation, and if any payments  
6 have been made in advance, the payments for services not  
7 received shall be refunded to the resident's guardian within  
8 10 working days after voluntary or involuntary closure of the  
9 facility, whether or not such refund is requested by the  
10 resident or guardian.

11 (3) Immediately upon discontinuance of the operation  
12 of a facility, the owner shall surrender the license therefor  
13 to the agency, and the license shall be canceled.

14 (4) The agency may levy a fine in an amount not to  
15 exceed \$10,000 upon each person or business entity that owns  
16 any interest in a facility that terminates operation without  
17 providing notice to the agency and the facility's residents at  
18 least 30 days before operation is discontinued. This fine  
19 shall not be levied against any facility involuntarily closed  
20 at the initiation of the agency. The agency shall use the  
21 proceeds of the fines to operate the facility until all  
22 residents are relocated and shall deposit any balance of the  
23 proceeds into the Health Care Trust Fund established under s.  
24 400.914.

25 Section 25. Section 400.928, Florida Statutes, is  
26 created to read:

27 400.928 Rules establishing standards.--

28 (1) Pursuant to the intention of the Legislature to  
29 provide safe and sanitary facilities, rules to implement the  
30 provisions of this part shall include reasonable and fair  
31 minimum standards in relation to:



1       (a) The maintenance of facilities, not in conflict  
2 with the provisions of chapter 553, relating to plumbing,  
3 heating, lighting, ventilation, and other housing conditions,  
4 to ensure the health, safety, and comfort of residents and  
5 protection from fire hazard, including adequate provisions for  
6 fire alarm and other fire protection suitable to the size of  
7 the structure. Uniform fire safety standards shall be  
8 established and enforced by the State Fire Marshal in  
9 cooperation with the agency and the division. Facilities that  
10 are fully sprinkled and in compliance with other fire safety  
11 standards shall not be required to conduct more than one of  
12 the required fire drills between the hours of 11 p.m. and 7  
13 a.m., per year. In lieu of the remaining drills, staff  
14 responsible for residents during such hours shall participate  
15 in a mock drill that includes a review of evacuation  
16 procedures. The agency shall not duplicate fire inspections  
17 performed by state or local fire marshals. Such standards  
18 shall be included or referenced in the rules adopted by the  
19 department after consultation with the State Fire Marshal.  
20 Pursuant to s. 633.022(1)(b), the State Fire Marshal shall be  
21 the final administrative authority for fire safety standards  
22 established and enforced pursuant to this section.

23       (b) The preparation and annual update of comprehensive  
24 emergency management plan. Such standards must be included in  
25 the rules adopted by the department after consultation with  
26 the Department of Community Affairs. At a minimum, the rules  
27 must provide for plan components that address emergency  
28 evacuation transportation; adequate sheltering arrangements;  
29 postdisaster activities, including emergency power, food, and  
30 water; postdisaster transportation; supplies; staffing;  
31 emergency equipment; individual identification of residents

1 and transfer of records; communicating with families; and  
2 responding to family inquiries. The comprehensive emergency  
3 management plan is subject to review and approval by the local  
4 emergency management agency. During its review, the local  
5 emergency management agency shall ensure that the following  
6 agencies, at a minimum, are given the opportunity to review  
7 the plan: the agency, the division, and the Department of  
8 Community Affairs. Also, appropriate volunteer organizations  
9 must be given the opportunity to review the plan. The local  
10 emergency management agency shall complete its review within  
11 60 days and either approve the plan or advise the facility of  
12 necessary revisions.

13 (c) The number and qualifications of all personnel  
14 having responsibility for the care of residents. The rules  
15 shall require adequate staff to provide for the safety of all  
16 residents.

17 (2) A representative of the agency shall conduct  
18 unannounced inspections of facilities licensed under this part  
19 to determine compliance with the provisions of this part.

20 (a) The number of these inspections conducted annually  
21 shall be equal to the number of licensed facilities.

22 (b) Facilities shall be selected for inspection  
23 through a random process.

24 (c) A report of the findings of these inspections  
25 shall be forwarded to the division.

26 (d) Findings of substantial noncompliance with this  
27 part and with rules adopted under this part shall be the basis  
28 for an additional review to be conducted pursuant to s.  
29 413.605.

30 (e) Reports resulting from reviews or inspections  
31 shall constitute a basis for administrative action against the

1 licensee by the agency. However, nothing in this section shall  
2 be construed as a limitation upon the power of the agency to  
3 take action to enforce this part and the rules adopted under  
4 this part.

5 (3) A fee shall be charged by the department to any  
6 person requesting a copy of this part or rules adopted under  
7 this part. Such fee shall not exceed the actual cost of  
8 duplication and postage.

9 Section 26. Section 400.929, Florida Statutes, is  
10 created to read:

11 400.929 Maintenance of records; reports.--

12 (1) Every facility shall maintain, as public  
13 information available for public inspection under such  
14 conditions as the agency shall prescribe, records containing  
15 copies of all inspection reports pertaining to the facility  
16 that have been issued by the agency to the facility. Copies of  
17 inspection reports shall be retained in the records for 5  
18 years from the date the reports are filed or issued.

19 (2) Every facility shall post a copy of the last  
20 inspection report of the agency, including any report  
21 resulting from an additional review performed pursuant to s.  
22 413.605 for that facility, in a prominent location within the  
23 facility so as to be accessible to all residents and to the  
24 public. Upon request, the facility shall also provide a copy  
25 of the report to any resident of the facility or to an  
26 applicant for admission to the facility.

27 Section 27. Subsection (4) of section 413.605, Florida  
28 Statutes, is amended to read:

29 413.605 Advisory council on brain and spinal cord  
30 injuries.--

31 (4) The council shall:

1       (a) Provide advice and expertise to the division in  
2 the preparation, implementation, and periodic review of the  
3 brain and spinal cord injury program as referenced in s.  
4 413.49.

5       (b) Annually appoint a five-member committee composed  
6 of one person who has a brain injury or has a family member  
7 with a brain injury, one person who has a spinal cord injury  
8 or has a family member with a spinal cord injury, and three  
9 members who shall be chosen from among these representative  
10 groups: physicians, other allied health professionals,  
11 administrators of brain and spinal cord injury programs, and  
12 representatives from support groups with expertise in areas  
13 related to the rehabilitation of persons who have brain or  
14 spinal cord injuries, except that one and only one member of  
15 the committee shall be an administrator of a transitional  
16 living facility as defined in s. 400.906(14). Membership on  
17 the council is not a prerequisite for membership on this  
18 committee.

19       1. The committee shall perform onsite visits to those  
20 transitional living facilities identified by the Agency for  
21 Health Care Administration as being in possible violation of  
22 the statutes and rules regulating such facilities. The  
23 committee members shall have the same rights of entry and  
24 inspection granted under s. 400.926 to designated  
25 representatives of the agency.

26       2. Factual findings of the committee resulting from an  
27 onsite investigation of a facility pursuant to subparagraph 1.  
28 shall be adopted by the agency in developing its  
29 administrative response regarding enforcement of statutes and  
30 rules regulating the operation of the facility.

31

1           3. Onsite investigations by the committee shall be  
2 funded by the Health Care Trust Fund.

3           4. Travel expenses for committee members shall be  
4 reimbursed in accordance with s. 112.061. Members of the  
5 committee shall recuse themselves from participating in any  
6 investigation that would create a conflict of interest under  
7 state law, and the council shall replace such member, either  
8 temporarily or permanently.

9           Section 28. Subsection (1) of section 413.273, Florida  
10 Statutes, is amended to read:

11           413.273 Per diem, travel expenses, ~~personal care~~  
12 ~~attendants, and accommodations interpreters~~ for council  
13 members; conflicts of interest; removal.--

14           (1) Members of any council established under this part  
15 are entitled to per diem and travel expenses for all  
16 activities required by the ~~attendance at~~ council meetings in  
17 accordance with the provisions of s. 112.061. Reasonable  
18 expenses for accommodations such as personal care attendants  
19 and interpreters needed by members because of their  
20 disabilities during all activities required by the ~~attendance~~  
21 ~~at council meetings~~ shall be reimbursed, or the accommodations  
22 shall be provided by the division. No member shall receive  
23 any compensation for performance of duties specified in, or  
24 arising out of, his duties as a council member under this part  
25 except as otherwise specified in this part.

26           Section 29. Subsection (1) of section 413.395, Florida  
27 Statutes, is amended, and subsection (13) is added to said  
28 section, to read:

29           413.395 Florida Independent Living Council.--

30           (1) There is created the Florida Independent Living  
31 Council to assist the division and the Division of Blind

1 Services of the Department of Labor and Employment Security,  
2 as well as other state agencies and local planning and  
3 administrative entities assisted under Title VII of the act,  
4 in the expansion and development of statewide independent  
5 living policies, programs, and concepts and to recommend  
6 improvements for such programs and services. ~~To ensure~~  
7 ~~consistency with the provisions of the act, as amended,~~The  
8 ~~Florida Independent Living~~ council shall function  
9 independently of the division and is ~~shall be~~ assigned to the  
10 division for administrative purposes only. The council may  
11 elect to be incorporated as a Florida not-for-profit  
12 corporation and, upon such election, shall be incorporated by  
13 the division for the purposes stated in this section. The  
14 council's appointed members shall constitute the board of  
15 directors for such corporation.

16 (13) In addition to those travel and other expenses  
17 covered by s. 413.273(1), and consistent with the procedures  
18 therein, the council may reimburse members for child care  
19 expenses incurred as a result of activities required by the  
20 council. The council may pay reasonable compensation to a  
21 member of the council if such member is not employed or must  
22 forfeit wages from other employment for each day the member is  
23 engaged in performing the duties of the council.

24 Section 30. Subsection (11) of section 413.405,  
25 Florida Statutes, is amended to read:

26 413.405 Rehabilitation Advisory Council.--There is  
27 created the Rehabilitation Advisory Council to assist the  
28 division in the planning and development of statewide  
29 rehabilitation programs and services, to recommend  
30 improvements to such programs and services, and to perform the  
31 functions listed in this section.

1           (11) In addition to those travel and other expenses  
2 covered by s. 413.273(1), and consistent with the procedures  
3 therein, the council may ~~shall~~ reimburse members ~~of the~~  
4 ~~council~~ for ~~reasonable and necessary expenses of attending~~  
5 ~~council meetings and performing council duties, including~~  
6 child care expenses incurred as a result of activities  
7 required by the council ~~and personal assistance services, as~~  
8 ~~provided in and subject to the requirements of s. 112.061.~~  
9 The council may pay reasonable compensation to a member of the  
10 council if such member is not employed or must forfeit wages  
11 from other employment for each day the member is engaged in  
12 performing the duties of the council.

13           Section 31. Section 400.805, Florida Statutes, is  
14 hereby repealed.

15           Section 32. This act shall take effect October 1,  
16 1997.

17  
18 \*\*\*\*\*

19 HOUSE SUMMARY

20 Provides for licensure and regulation of transitional  
21 living facilities for brain and spinal cord injured  
22 persons. Provides for services to and rights of persons  
23 residing in such facilities. Specifies respective powers  
24 and duties of the Agency for Health Care Administration  
25 and the Division of Vocational Rehabilitation of the  
26 Department of Labor and Employment Security with respect  
27 to such facilities and residents. Also provides for  
28 reimbursement of certain expenses for members of division  
29 advisory councils. See bill for details.  
30  
31