

By Senator Brown-Waite

10-129-98

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

1 proceedings; creating s. 400.920, F.S.;

2 providing for contracts; creating s. 400.921,

3 F.S.; providing requirements for use of

4 licensed personnel; creating s. 400.922, F.S.;

5 providing for appropriateness of placements and

6 examination of residents; creating s. 400.923,

7 F.S.; providing for property and personal

8 affairs of residents; providing a penalty;

9 creating s. 400.924, F.S.; providing a resident

10 bill of rights; creating 400.925, F.S.;

11 providing for civil actions to enforce rights;

12 creating s. 400.926, F.S.; providing right of

13 entry and inspection; creating s. 400.927,

14 F.S.; providing procedures for closing of

15 facilities, including notice and penalties;

16 creating s. 400.928, F.S.; providing for rules

17 establishing standards; creating s. 400.929,

18 F.S.; providing for maintenance of records and

19 reports; amending s. 413.605, F.S.; providing

20 additional duty of the advisory council on

21 brain and spinal cord injuries; amending s.

22 413.273, F.S.; revising per diem and travel

23 expenses for members of certain councils;

24 amending s. 413.395, F.S.; authorizing

25 incorporation of the Florida Independent Living

26 Council; authorizing members' compensation and

27 reimbursement for child care; amending s.

28 413.405, F.S., relating to the Rehabilitation

29 Advisory Council; authorizing members'

30 reimbursement for child care; repealing s.

31 400.805, F.S., relating to transitional living

1 facilities for brain-injured and
2 spinal-cord-injured persons; providing an
3 effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Sections 2-26 of this act create part IX of
8 chapter 400, Florida Statutes, which is entitled "Transitional
9 Living Facilities," and which consists of sections 400.905,
10 400.906, 400.907, 400.908, 400.909, 400.911, 400.912, 400.913,
11 400.914, 400.915, 400.916, 400.917, 400.918, 400.919, 400.920,
12 400.921, 400.922, 400.923, 400.924, 400.925, 400.926, 400.927,
13 400.928, 400.929, Florida Statutes.

14 Section 2. Section 400.905, Florida Statutes, is
15 created to read:

16 400.905 Transitional living facilities for
17 brain-injured and spinal-cord-injured persons.--

18 (1) Facilities that must be licensed under this part
19 include all facilities that deliver services under this part,
20 except as otherwise provided in this part.

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

23 (a) Any facility, institution, or other place operated
24 by the Federal Government or any agency of the Federal
25 Government.

26 (b) Any facility or part of a facility licensed under
27 chapter 393 or chapter 394 or licensed or eligible for
28 licensure under any other part of this chapter.

29 (3)(a) The agency shall, in consultation with the
30 division, adopt rules that govern the physical plant and
31 fiscal management of transitional living facilities.

1 (b) The division shall, in consultation with the
2 agency, adopt rules that govern the services provided to
3 clients. Under those rules, investigative and enforcement
4 duties must be divided between the division and the agency as
5 described in part II of chapter 413 and this part.

6 (4)(a) It is unlawful for any person to offer or
7 advertise, in any medium, services or care as a transitional
8 living facility, or to use the term "transitional living
9 facility" or the term "transitional living program" to
10 describe services or care in any advertisement or offering,
11 without obtaining a license under this part.

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

15 (5) A violation of paragraph (4)(a) or paragraph
16 (4)(b) or rules adopted under those paragraphs is a
17 misdemeanor of the first degree, punishable as provided in s.
18 775.082 or s. 775.083.

19 Section 3. Section 400.906, Florida Statutes, is
20 created to read:

21 400.906 Definitions.--As used in this part, the term:

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

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

26 (3) "Agency" means the Agency for Health Care
27 Administration.

28 (4) "Applicant" means any facility owner or, with
29 respect to a business entity, a person appointed by the entity
30 to make application for a license.

31

1 (5) "Community reintegration" means the point at which
2 the division makes a determination that all resources
3 available for addressing the medical, psychosocial, and
4 personal needs of an individual within a particular community
5 and necessary to minimize secondary medical and psychological
6 complications and long-term care and promote independence and
7 self-sufficiency have been identified and that the individual
8 may be safely accommodated within the community independent of
9 any further support from the division.

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

12 (7) "Division" means the Division of Vocational
13 Rehabilitation of the Department of Labor and Employment
14 Security.

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

16 (9) "Personal assistance services" is defined as
17 provided in s. 413.20.

18 (10) "Resident" means a person who is 16 years of age
19 or older and who is residing in and receiving care at or
20 through a facility.

21 (11) "Resident's representative or designee" means a
22 person who is 18 years of age or older, other than the
23 facility owner or an agent or employee of the facility, and
24 who is designated in writing by the resident, if legally
25 competent, to receive notice of changes in the contract
26 executed under s. 400.920 and to receive notice of and
27 participate in meetings between the resident and the facility
28 owner, administrator, or staff concerning the rights of the
29 resident.

30 (12) "Supervising activities of daily living" means
31 reminding residents to engage in activities of daily living,

1 and, when necessary, observing or providing verbal cueing to
2 residents while they perform these activities.

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

6 (14) "Transitional living facility" means a site at
7 which the functions set forth in s. 413.49(6)(b)-(d) are
8 performed primarily for the provision of services related to
9 and directed at traumatic injury and operating solely to
10 effectuate a transitional living program, which site is in
11 compliance with the responsibilities stated in this part and
12 relevant parts of chapter 413.

13 (15) "Transitional living program" means a written
14 plan that:

15 (a) Conforms to the goal stated in s. 413.49(6)(b),
16 which is developed and agreed upon by the resident and, if
17 applicable, the resident's representative or designee or the
18 resident's surrogate, guardian, or attorney in fact, if any,
19 and the administrator or designee representing the facility;

20 (b) Addresses the unique physical and psychosocial
21 needs, abilities, and personal preferences of a resident who
22 is receiving services at or through the facility; and

23 (c) Includes information, in easily understood
24 language, concerning the services that are to be provided, who
25 is to provide the services, when the services are to be
26 rendered, and the purposes and benefits of the services.

27 (16) "Traumatic injury" is defined as provided in s.
28 413.20.

29 Section 4. Section 400.907, Florida Statutes, is
30 created to read:

31 400.907 License required; fee; display.--

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

4 (b)1. Any person found to be in violation of paragraph
5 (a) who, upon notification by the agency, fails to apply for a
6 license within 10 working days after receiving the
7 notification commits a felony of the third degree, punishable
8 as provided in s. 775.082, s. 775.083, or s. 775.084.

9 2. If the agency determines that an owner is operating
10 or maintaining a facility without obtaining a license and
11 determines that a condition that exists in the facility poses
12 a threat to the health, safety, or welfare of a resident of
13 the facility, the owner commits neglect as defined in s.
14 415.102 and is subject to the same actions and penalties
15 specified in ss. 400.909 and 400.915 for a negligent act
16 seriously affecting the health, safety, or welfare of a
17 resident of the facility.

18 (2) Separate licenses are required for facilities
19 maintained in separate premises, even though operated under
20 the same management. A separate license is not required for
21 separate buildings on the same grounds.

22 (3) A license granted by the agency must state the
23 maximum licensed resident capacity of the facility, whether
24 the facility is accredited to serve brain-injured persons or
25 spinal-cord-injured persons, or both, the date the license was
26 issued, the expiration date of the license, and any other
27 information that the agency considers necessary.

28 (4) The annual license fee for a facility is \$3,000
29 per license plus \$50 per resident times the maximum licensed
30 resident capacity of the facility. Neither fee is refundable,
31 in whole or in part.

1 (5) The license must be displayed in a conspicuous
2 place inside the facility.

3 (6) A license is valid only in the possession of the
4 individual, firm, partnership, association, or corporation to
5 which it was issued and may not be sold, assigned, or
6 otherwise transferred, voluntarily or involuntarily; nor is a
7 license valid for any premises other than the premises for
8 which it was originally issued.

9 (7) For the purpose of any activity regulated under
10 this part in which a licensed facility participates in excess
11 of the authority granted under the facility's license, the
12 facility is considered unlicensed.

13 Section 5. Section 400.908, Florida Statutes, is
14 created to read:

15 400.908 Sale or transfer of ownership of a
16 facility.--It is the intent of the Legislature to protect the
17 rights of the residents of a facility when the facility is
18 sold or the ownership thereof is transferred. When a facility
19 is sold or the ownership thereof is transferred, including any
20 transfer by lease:

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

24 (2)(a) The transferor shall notify the agency in
25 writing at least 60 days before the date of transfer of
26 ownership.

27 (b) The new owner shall notify the residents, in
28 writing, of the transfer of ownership within 7 days after
29 receipt of the license.

30 (3) The transferor is responsible and liable for:
31

1 (a) The lawful operation of the facility and the
2 welfare of the residents domiciled in the facility, until the
3 date the transferee is licensed by the agency.

4 (b) Each penalty imposed against the facility for any
5 violation that occurred before the date of the transfer of
6 ownership, unless the penalty is a moratorium on admissions or
7 a denial of licensure. A moratorium on admissions or a denial
8 of licensure remains in effect after the transfer of
9 ownership, unless either the agency has approved the
10 transferee's corrective action plan or the conditions that
11 created the moratorium or denial have been corrected, and may
12 be grounds for denial of licensure to the transferee in
13 accordance with chapter 120.

14 (c) Any outstanding liability to the state, unless the
15 transferee has agreed, as a condition of sale or transfer, to
16 accept the outstanding liability and to guarantee payment
17 therefor; except that, if the transferee fails to meet these
18 obligations, the transferor remains liable for the outstanding
19 liability.

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

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

1 Section 6. Section 400.909, Florida Statutes, is
2 created to read:

3 400.909 Denial, revocation, or suspension of license;
4 administrative fine.--

5 (1) The agency may deny, revoke, or suspend a license
6 issued under this part or impose an administrative fine in the
7 manner provided in chapter 120. At the chapter 120 hearing,
8 the agency must prove by a preponderance of the evidence that
9 its actions are warranted.

10 (2) Any of the following actions by a facility or any
11 employee constitutes grounds for action by the agency against
12 a licensee:

13 (a) An intentional or negligent act that seriously
14 affects the health, safety, or welfare of a resident of the
15 facility.

16 (b) The determination by the agency, pursuant to the
17 information obtained through this part, that the facility
18 owner or administrator is not of suitable character or
19 competency, or that the owner lacks the financial ability, to
20 provide continuing adequate care to residents.

21 (c) Misappropriation or conversion of the property of
22 a resident of the facility.

23 (d) Five or more repeated or recurring identical or
24 similar class III violations of this part which have been
25 identified by the agency within the last 18 months and which,
26 in the aggregate, affect the health, safety, or welfare of the
27 facility residents.

28 (e) A confirmed report of adult abuse, neglect, or
29 exploitation, as defined in s. 415.102, which has been upheld
30 following a chapter 120 hearing or a waiver of such
31 proceedings where the perpetrator is an employee, volunteer,

1 administrator, or owner, or otherwise has access to the
2 residents of a facility, and the administrator has not taken
3 action to remove the perpetrator. Exemptions from
4 disqualification may be granted as set forth in s. 435.07.
5 Administrative action may not be taken against the facility if
6 the perpetrator has been granted an exemption.

7 (f) Violation of a moratorium.

8 (g) Failure of the licensee to meet minimum license
9 standards or the requirements of rules adopted under this
10 part.

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

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

20 (j) Having been found by any licensing, certifying, or
21 professional standards board or agency to have violated the
22 standards or conditions relating to licensure or certification
23 or the quality of services provided.

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

30 (3) The agency may deny a license to an applicant who
31 owns 5 percent or more of, or operates, a facility that has

1 had a license denied, suspended, or revoked pursuant to
2 subsection (2) or, during the 2 years immediately before the
3 application for licensure, has had a moratorium imposed on
4 admissions, has had an injunctive proceeding initiated against
5 it, has had a receiver appointed, has been closed due to
6 financial inability to operate, or has not yet paid a fine
7 assessed under this part.

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

16 Section 7. Section 400.910, Florida Statutes, is
17 created to read:

18 400.910 Moratorium on admissions.--The agency may
19 impose an immediate moratorium on admissions to any facility
20 when the agency determines that any condition in the facility
21 presents a threat to the health, safety, or welfare of the
22 residents in the facility. If a facility's license is denied,
23 revoked, or suspended as a result of a violation of s.
24 400.909, the facility may be subject to immediate imposition
25 of a moratorium on admissions to run concurrently with
26 licensure denial, revocation, or suspension.

27 Section 8. Section 400.911, Florida Statutes, is
28 created to read:

29 400.911 Initial license application.--

30 (1) Application for licensure must be made to the
31 agency on forms furnished by it and must be accompanied by the

1 appropriate license fee. The application must contain
2 sufficient information, as required by rule, to establish that
3 the applicant can provide adequate care.

4 (2) The application must be under oath and must
5 contain the following:

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

9 1. If the applicant is a firm, partnership, or
10 association, the application must contain the name, address,
11 date of birth, and social security number of every member
12 thereof.

13 2. If the applicant is a corporation, the application
14 must contain its name and address; the name, address, date of
15 birth, and social security number of each of its directors and
16 officers; and the name and address of each person who has at
17 least a 5-percent interest in the corporation.

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

25 (c) Information that provides a source to establish
26 the good moral character, financial stability, and competency
27 of the applicant and of each person specified in the
28 application under subparagraph (a)1. or subparagraph (a)2. who
29 has at least a 5-percent interest in the firm, partnership,
30 association, or corporation and, if applicable, of the
31 administrator, including the name and address of any

1 long-term-care facility with which the applicant or
2 administrator has been affiliated through ownership or
3 employment within the 5 years immediately before the date of
4 the application.

5 (d) A signed affidavit disclosing any financial
6 ownership interest that the applicant or any principal,
7 partner, or shareholder thereof holds or has held within the
8 previous 5 years in any other facility licensed under this
9 part, or in any other entity licensed by the state or another
10 state to provide health or residential care, which facility or
11 entity has closed or ceased to operate as a result of
12 financial problems.

13 (e) The names and addresses of other persons of whom
14 the agency may inquire as to the character and reputation of
15 the applicant and, if applicable, of the administrator.

16 (f) Information relating to the applicant or, if
17 applicable, to the administrator pertaining to any arrest for,
18 or adjudication or conviction of, a crime that relates to
19 providing care in a facility or the ability to operate a
20 facility.

21 (g) The names and addresses of other persons of whom
22 the agency may inquire as to the financial responsibility of
23 the applicant.

24 (h) Identification of all other homes or facilities,
25 including the addresses and the license or licenses under
26 which they operate, if applicable, which are operated by the
27 applicant and which provide housing, meals, and personal
28 services to adults.

29 (i) Such other reasonable information as is required
30 by the agency to evaluate the ability of the applicant to meet
31 the responsibilities imposed under this part.

1 (j) The location of the facility for which a license
2 is sought and documentation, signed by the appropriate local
3 government official, stating that the applicant has met local
4 zoning requirements.

5 (k) The name, address, date of birth, social security
6 number, education, and experience of the administrator.

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

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

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

21 2. "Managing employee" means the administrator or
22 other similarly titled individual who is responsible for the
23 daily operation of the facility.

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

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

3 (c) Each applicant must submit to the Department of
4 Law Enforcement the information, including a full set of
5 fingerprints necessary to enable a criminal background
6 investigation to be conducted for a state criminal and
7 juvenile history records check. The Department of Law
8 Enforcement shall forward the fingerprints to the Federal
9 Bureau of Investigation for a national criminal history
10 records check. Upon completion of the state and national
11 criminal history records checks, the Department of Law
12 Enforcement shall report the findings to the agency. The
13 actual cost of such state and national criminal history
14 records checks must be borne by the applicant.

15 (d) Each applicant must submit to the Department of
16 Children and Family Services a complete set of information
17 necessary for conducting records checks through the
18 department's central abuse registry. The actual costs of
19 searching the department's central abuse registry must be
20 borne by the applicant.

21 (e) A license may not be granted to any applicant who
22 has been found guilty of, regardless of adjudication, or
23 entered a plea of nolo contendere or guilty to, any offense
24 prohibited under the level 2 standards of chapter 435. A
25 license may not be granted to any applicant who has a
26 confirmed report of abuse, neglect, or exploitation as defined
27 in s. 415.102, which has been uncontested or upheld under s.
28 415.1075, or who has a proposed confirmed report that remains
29 unserved and is maintained in the central abuse registry and
30 tracking system pursuant to s. 415.1065(2)(c).

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1 (f) The agency shall also require every applicant, as
2 a condition of license application, to submit information
3 concerning any prior violation, fine, suspension, termination,
4 or other administrative action taken under the laws, rules, or
5 regulations of any regulatory body of this state or of any
6 other state or the Federal Government, and of any prior
7 violation of the laws, rules, or regulations relating to the
8 Medicaid or Medicare programs.

9 (g) The agency may deny licensure to any applicant
10 who:

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

17 2. Has been found by any licensing, certifying, or
18 professional standards board or agency to have violated the
19 standards or conditions relating to licensure or certification
20 or the quality of services provided.

21 3. Has been or is currently excluded, suspended, or
22 terminated from, or has involuntarily withdrawn from,
23 participation in Florida's Medicaid program or any other
24 state's Medicaid program, or participation in the Medicare
25 program or any other governmental or private health care or
26 health insurance program.

27 (h) Upon licensure renewal, each applicant must submit
28 to the agency, under penalty of perjury, an affidavit of
29 compliance with the background screening provisions of this
30 section.

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1 (i) Proof of compliance with the level 2 background
2 screening requirements of chapter 435 which has been submitted
3 within the previous 5 years to fulfill any other Florida
4 health care licensure requirements will satisfy the
5 requirements of the Department of Law Enforcement and
6 Department of Children and Family Services background check,
7 if the proof of compliance is accompanied, under penalty of
8 perjury, by an affidavit of compliance with these background
9 screening provisions.

10 (5) The applicant shall provide proof of liability
11 insurance.

12 (6) A county or municipality may not issue an
13 occupational license that is being obtained for the purpose of
14 operating a facility regulated under this part without first
15 determining that the applicant has been licensed by the agency
16 to operate such a facility at the specified location or
17 locations. The agency shall furnish to the local agencies
18 responsible for issuing occupational licenses sufficient
19 instruction for making such determinations.

20 Section 9. Section 400.912, Florida Statutes, is
21 created to read:

22 400.912 Expiration of license; renewal; conditional
23 license.--

24 (1) A license issued for the operation of a facility,
25 unless sooner suspended or revoked, expires automatically 1
26 year after the date of issuance. The agency shall notify the
27 facility by certified mail 120 days before the expiration of
28 the license that relicensure is necessary to continue
29 operation. Ninety days before the expiration date, an
30 application for renewal must be submitted to the agency. A
31 license must be renewed by filing an application on forms

1 furnished by the agency, if the applicant has first met the
2 requirements established under this part and all rules adopted
3 under this part. The failure to file a timely application
4 results in a late fee being charged to the facility in an
5 amount equal to 50 percent of the fee in effect on the last
6 preceding regular renewal date. Late fees must be deposited
7 into the Health Care Trust Fund as provided in s. 400.914. The
8 facility shall file with the application satisfactory proof of
9 ability to operate the facility in accordance with the
10 requirements of this part. If an applicant for renewal of a
11 license has complied on the initial license application with
12 the provisions of s. 400.911 with respect to proof of
13 financial ability to operate, the applicant is not required to
14 provide proof of financial ability on renewal applications,
15 unless the facility or any other facility owned or operated in
16 whole or in part by the same person or business entity has
17 demonstrated financial instability as evidenced by bad checks,
18 delinquent accounts, or nonpayment of withholding taxes,
19 utility expenses, or other essential services or unless the
20 agency suspects that the facility is not financially stable as
21 a result of review or inspection. Each facility shall report
22 to the agency any adverse court action concerning the
23 facility's financial viability within 7 days after its
24 occurrence. The agency must be given access to books, records,
25 and any other financial documents maintained by the facility
26 to the extent necessary to carry out the purposes of this
27 section. A license for the operation of a facility must not be
28 renewed if the licensee has any outstanding fines assessed
29 under this part which are in final order status.

30 (2) Upon application for renewal of a license, the
31 applicant must submit to the agency, under penalty of perjury,

1 an affidavit of compliance with the background screening
2 provisions of this part. Proof of compliance with the level 2
3 background screening requirements of chapter 435 which has
4 been submitted within the previous 5 years to fulfill any
5 other Florida health care licensure requirements will satisfy
6 the requirements of the Department of Law Enforcement and
7 Department of Children and Family Services background check if
8 the proof of compliance is accompanied, under penalty of
9 perjury, by an affidavit of compliance with these background
10 screening provisions.

11 (3) A licensee against whom a revocation or suspension
12 proceeding is pending at the time of license renewal may be
13 issued a conditional license effective until final disposition
14 by the agency of such proceeding. If judicial relief is sought
15 from the final disposition, the court having jurisdiction may
16 issue a conditional license for the duration of the judicial
17 proceeding.

18 (4) A conditional license may be issued to an
19 applicant for license renewal when the applicant fails to meet
20 a standard or requirement for licensure. A conditional license
21 issued under this subsection must be limited in duration to a
22 specified period not to exceed 6 months, as determined by the
23 agency, and must be accompanied by an approved corrective
24 action plan.

25 Section 10. Section 400.913, Florida Statutes, is
26 created to read:

27 400.913 Reports of abuse in facilities.--When an
28 employee, volunteer, administrator, or owner of a facility has
29 a confirmed report of adult abuse, neglect, or exploitation,
30 as defined in s. 415.102, and the protective investigator
31 knows that such person is an employee, volunteer,

1 administrator, or owner of a facility, the protective
2 investigator must notify the agency of the confirmed report.

3 Section 11. Section 400.914, Florida Statutes, is
4 created to read:

5 400.914 Disposition of fees and administrative
6 fines.--

7 (1) Income from license fees, late fees, and
8 administrative fines which is generated under ss. 400.907,
9 400.909, 400.912, 400.915, 400.916, 400.926, and 400.927 must
10 be deposited in the Health Care Trust Fund administered by the
11 agency. Such funds must be directed to and used by the agency
12 for the following purposes:

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

18 (b) The balance of trust funds accrued each year under
19 this part must be used to offset the costs of the licensure
20 program, including the costs of verifying information
21 submitted and conducting inspections and monitoring visits
22 under this part and part II of chapter 413.

23 (2) Income from fees which is generated pursuant to s.
24 400.928(3) must be deposited in the Health Care Trust Fund and
25 used to offset the costs of printing and postage.

26 Section 12. Section 400.915, Florida Statutes, is
27 created to read:

28 400.915 Violations; penalties.--

29 (1)(a) If the agency determines that a facility is not
30 in compliance with minimum standards or the requirements of
31 rules adopted under this part, including the failure to report

1 evidence of the facility's financial instability or the
2 operation of a facility without a license, the agency, as an
3 alternative to or in conjunction with an administrative action
4 against the facility and before written notification thereof,
5 shall make a reasonable attempt to discuss with the facility
6 owner or administrator each violation and recommended
7 corrective action. The agency, instead of fixing a period
8 within which the facility must enter into compliance with the
9 standards and rules, may request that the facility submit a
10 corrective action plan that demonstrates a good-faith effort
11 to remedy each violation by a specified date, subject to the
12 approval of the agency.

13 (b) Any facility owner or administrator who is found
14 to be in violation of this part, including any individual
15 operating a facility without a license, is subject to a civil
16 penalty to be imposed by the agency under this section.

17 (c) Each day during which any person violates any
18 provision of this part after the date fixed for termination of
19 the violation by applicable statute, rule, or order of the
20 agency constitutes an additional, separate, and distinct
21 violation.

22 (d) Any action taken to correct a violation must be
23 documented in writing by the administrator and verified
24 through subsequent visits by designated agency personnel. The
25 agency may impose a civil penalty under this section and, in
26 the case of an owner-operated facility, revoke a facility's
27 license when an administrator fraudulently misrepresents
28 action taken to correct a violation.

29 (e) If a facility desires to appeal any agency action
30 imposing a civil penalty under this section, it must send a
31 written request for a hearing to the agency within 15 days

1 after receipt by certified mail of the notice of the agency
2 action. If the civil penalty is upheld, the facility must pay
3 the fine, plus interest at the legal rate as specified in s.
4 687.01, for each day beyond the date set by the agency for
5 payment of the fine.

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

9 (a) The gravity of the violation, including the
10 probability that death or serious physical or emotional harm
11 to a resident will result or has resulted, the severity of the
12 action or potential harm, and the extent to which the
13 provisions of the applicable statutes or rules were violated.

14 (b) Actions taken by the owner or administrator to
15 correct violations.

16 (c) Any previous violations.

17 (d) The financial benefit to the facility of
18 committing or continuing the violation.

19 (e) The licensed residential capacity of the facility.

20 (3) Each violation must be classified according to the
21 nature of the violation and the gravity of its probable effect
22 on the residents of the facility. The agency shall indicate
23 the classification of each violation on the face of the notice
24 of the violation, as follows:

25 (a) Class I violations are those conditions or
26 occurrences related to the operation and maintenance of a
27 facility or to the personal care of residents which the agency
28 determines present an imminent danger to the residents or
29 guests of the facility or a substantial probability that death
30 or serious physical or emotional harm will result therefrom.
31 The condition or practice constituting a class I violation

1 must be abated or eliminated within 24 hours, unless a
2 different fixed period, as determined by the agency, is
3 required for correction. A class I violation is subject to a
4 civil penalty of not less than \$1,000 and not more than \$5,000
5 for each violation. The penalty may be imposed notwithstanding
6 the correction of the violation.

7 (b) Class II violations are those conditions or
8 occurrences, other than class I violations, related to the
9 operation and maintenance of a facility or to the personal
10 care of residents which the agency determines directly
11 threaten the physical or emotional health, safety, or security
12 of the residents. A class II violation is subject to a civil
13 penalty of not less than \$500 and not more than \$1,000 for
14 each violation. A citation for a class II violation must
15 specify the time within which the violation must be corrected.
16 If a class II violation is corrected within the specified
17 time, a penalty may not be imposed, unless the violation is a
18 repeat offense.

19 (c) Class III violations are those conditions or
20 occurrences, other than class I or class II violations,
21 related to the operation and maintenance of a facility or to
22 the personal care of residents which the agency determines
23 indirectly or potentially threaten the physical or emotional
24 health, safety, or security of the residents. A class III
25 violation is subject to a civil penalty of not less than \$100
26 and not more than \$500 for each violation. A citation for a
27 class III violation must specify the time within which the
28 violation must be corrected. If a class III violation is
29 corrected within the specified time, a penalty may not be
30 imposed, unless it is a repeat offense.

31

1 (d) Class IV violations are those conditions or
2 occurrences related to the operation and maintenance of a
3 building, or to required reports, forms, or documents, which
4 do not have the potential to negatively affect residents.
5 These violations are of a type that the agency determines do
6 not threaten the health, safety, or security of the residents
7 of the facility. A facility that does not correct a class IV
8 violation within the time limit specified in the
9 agency-approved corrective action plan is subject to a civil
10 penalty of not less than \$50 and not more than \$200 for each
11 violation. Any class IV violation that is corrected during the
12 survey will be identified as an agency finding and not as a
13 violation.

14 (4) The agency may impose a fine not to exceed \$500
15 for each violation that cannot be classified according to
16 subsection (3). Such fines, in the aggregate, may not exceed
17 \$5,000.

18 (5) The proceeds of civil penalties paid by any
19 facility under subsections (3) and (4) must be deposited into
20 the Health Care Trust Fund and expended as provided in s.
21 400.914.

22 (6) The agency shall develop and disseminate an annual
23 list of all facilities that have been sanctioned or fined in
24 excess of \$500 for violations of this part, the number and
25 class of violations involved, the penalties imposed, and the
26 current status of cases. The list must be forwarded, at no
27 charge, to the division. The agency may charge a fee
28 commensurate with the cost of printing and postage to any
29 other interested party that requests a copy of this list.

30 Section 13. Section 400.916, Florida Statutes, is
31 created to read:

1 400.916 Rebates prohibited; penalties.--
2 (1) It is unlawful for any facility that is licensed
3 under this part to contract or promise to pay or receive any
4 commission, bonus, kickback, or rebate or to engage in any
5 split-fee arrangement in any form whatsoever with any
6 physician, surgeon, organization, agency, or person, either
7 directly or indirectly, for residents referred to a facility
8 licensed under this part. A facility may employ or contract
9 with a person to market the facility if the designated
10 employee or contract provider clearly indicates that he or she
11 represents the facility. A person or agent independent of the
12 facility may provide placement or referral services for a fee
13 to individuals seeking assistance in finding a suitable
14 facility; however, any fee paid for placement or referral
15 services must be paid by the individual who is looking for a
16 facility, not by the facility.

17 (2) The agency, in consultation with the division,
18 shall adopt rules that impose administrative penalties for
19 acts prohibited by subsection (1).

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

22 400.917 Certain solicitation prohibited; third-party
23 supplementation.--

24 (1) A person may not, in connection with the
25 solicitation of contributions by or on behalf of a facility,
26 misrepresent or mislead any person, by any manner, means,
27 practice, or device whatsoever, to believe that the receipts
28 of such solicitation will be used for charitable purposes if
29 that is not the case.

30 (2) Solicitation of contributions of any kind in a
31 threatening, coercive, or unduly forceful manner by or on

1 behalf of a facility by any agent, employee, owner, or
2 representative of any facility is grounds for denial,
3 suspension, or revocation of the license of the facility by or
4 on behalf of which such solicitation was made.

5 (3) The admissions or maintenance of facility
6 residents whose care is supported, in whole or in part, by
7 state funds may not be conditioned upon the receipt of any
8 contribution or donation from any person. The solicitation or
9 receipt of contributions in violation of this subsection is
10 grounds for denial, suspension, or revocation of license, as
11 provided in s. 400.909, for any facility by or on behalf of
12 which such contributions were solicited.

13 (4) A facility may accept additional supplementation
14 from third parties on behalf of residents who are receiving
15 optional state supplementation in accordance with s. 409.212.

16 Section 15. Section 400.918, Florida Statutes, is
17 created to read:

18 400.918 Injunctive proceedings.--

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

21 (a) Enforce the provisions of this part or any minimum
22 standard, rule, or order issued or entered into pursuant
23 thereto when the attempt by the agency to correct a violation
24 through administrative fines has failed or when the violation
25 materially affects the health, safety, or welfare of
26 residents; or

27 (b) Terminate the operation of a facility when
28 violations of any provision of this part or of any standard or
29 rule adopted pursuant thereto exist which materially affect
30 the health, safety, or welfare of residents.

31

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

3 (3) The Legislature recognizes that, in some
4 instances, action is necessary to protect residents of
5 facilities from immediate, life-threatening situations. In
6 such a case, the court may allow a temporary injunction
7 without bond or proper proof being made. If it appears by
8 competent evidence or a sworn, substantiated affidavit that a
9 temporary injunction should issue, the court, pending the
10 determination on final hearing, shall enjoin operation of the
11 facility.

12 Section 16. Section 400.919, Florida Statutes, is
13 created to read:

14 400.919 Receivership proceeding.--

15 (1) As an alternative to or in conjunction with an
16 injunctive proceeding, the agency may petition a court of
17 competent jurisdiction for the appointment of a receiver, if
18 suitable alternative placements are not available, when any of
19 the following conditions exist:

20 (a) The facility is operating without a license and
21 refuses to make application for a license as required by s.
22 400.907.

23 (b) The facility is closing or has informed the agency
24 that it intends to close, and adequate arrangements have not
25 been made for relocation of the residents within 7 days,
26 exclusive of weekends and holidays, after the closing of the
27 facility.

28 (c) The agency determines that conditions exist in the
29 facility which present an imminent danger to the health,
30 safety, or welfare of the residents or a substantial

31

1 probability that death or serious physical harm may result
2 therefrom.

3 (d) The facility cannot meet its financial obligation
4 to provide food, shelter, care, and utilities.

5 (2) Petitions for receivership take precedence over
6 the other court business, unless the court determines that
7 some other pending proceeding, having similar statutory
8 precedence, has priority. A hearing must be conducted within 5
9 days after the filing of the petition, at which time all
10 interested parties must be given the opportunity to present
11 evidence pertaining to the petition. The agency shall notify,
12 by certified mail, the owner or administrator of the facility
13 named in the petition and the facility residents or, if
14 applicable, the residents' representatives or designees, or
15 the residents' surrogates, guardians, or attorneys in fact, of
16 its filing, the substance of the violation, and the date and
17 place set for the hearing. The court shall grant the petition
18 only upon finding that the health, safety, or welfare of
19 residents will be threatened if a condition existing at the
20 time the petition was filed is permitted to continue. A
21 receiver may not be appointed ex parte unless the court
22 determines that one or more of the conditions in subsection
23 (1) exists; the facility owner or administrator cannot be
24 found; all reasonable means of locating the owner or
25 administrator and notifying him or her of the petition and
26 hearing have been exhausted; or the owner or administrator,
27 after notification of the hearing, chooses not to attend.
28 After such findings, the court may appoint any qualified
29 person as a receiver, except that it may not appoint any owner
30 or affiliate of the facility that is in receivership. The
31 receiver may be selected from a list of persons qualified to

1 act as receivers prepared by the agency and presented to the
2 court with each petition for receivership. The agency or
3 designated agency employee may be appointed as a receiver for
4 up to 60 days. The court may grant a 30-day extension upon a
5 showing of good cause.

6 (3) The receiver must make provision for the continued
7 health, safety, and welfare of all residents of the facility
8 and:

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

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

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

19 (d) May use the building, fixtures, furnishings, and
20 any accompanying consumable goods in the provision of care and
21 services to residents and to any other persons who were
22 receiving services from the facility at the time the petition
23 for receivership was filed. The receiver shall collect
24 payments for all goods and services that are provided to
25 residents or others during the period of the receivership at
26 the same rate of payment charged by the owner at the time the
27 petition for receivership was filed, or at a fair and
28 reasonable rate otherwise approved by the court.

29 (e) May correct or eliminate any deficiency in the
30 structure or furnishings of the facility which endangers the
31 safety or health of residents while they remain in the

1 facility, if the total cost of correction does not exceed
2 \$10,000. The court may order expenditures for this purpose in
3 excess of \$10,000 on application from the receiver after
4 notice to the owner and a hearing.

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

7 (g) Shall honor all leases, mortgages, and secured
8 transactions governing the building in which the facility is
9 located and all goods and fixtures in the building of which
10 the receiver has taken possession, but only to the extent of
11 payments that, in the case of a rental agreement, are for the
12 use of the property during the period of the receivership, or
13 that, in the case of a purchase agreement, become due during
14 the period of the receivership.

15 (h) Shall have full power to direct and manage the
16 facility and to discharge employees of the facility, subject
17 to any contract rights they may have. The receiver shall pay
18 employees at the rate of compensation, including benefits,
19 approved by the court. A receivership does not relieve the
20 owner of any obligation to employees made before the
21 appointment of a receiver and not carried out by the receiver.

22 (i) Shall be entitled to and take possession of all
23 property or assets of residents which are in the possession of
24 a facility or its owner. The receiver shall preserve all
25 property, assets, and records of residents of which the
26 receiver takes possession and shall provide for the prompt
27 transfer of the property, assets, and records to the new
28 placement of any transferred resident. An inventory list
29 certified by the owner and receiver must be made immediately
30 at the time the receiver takes possession of the facility.

31

1 (4)(a) A person who is served with notice of an order
2 of the court appointing a receiver and of the receiver's name
3 and address is liable to pay the receiver for any goods or
4 services provided by the receiver after the date of the order
5 if the person would have been liable for the goods or services
6 as supplied by the owner. The receiver shall give a receipt
7 for each payment and shall keep a copy of each receipt on
8 file. The receiver shall deposit accounts received in a
9 separate account and shall use this account for all
10 disbursements.

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

13 (c) A payment to the receiver of any sum owing to the
14 facility or its owner discharges any obligation to the
15 facility to the extent of the payment.

16 (5)(a) A receiver may petition the court that the
17 receiver not be required to honor any lease, mortgage, secured
18 transaction, or other wholly or partially executory contract
19 entered into by the owner if the rent, price, or rate of
20 interest required to be paid under the agreement was
21 substantially in excess of a reasonable rent, price, or rate
22 of interest at the time the contract was entered into, or if
23 any material provision of the agreement was unreasonable
24 compared to contracts negotiated under similar conditions. Any
25 relief in this form provided by the court is limited to the
26 life of the receivership, unless otherwise determined by the
27 court.

28 (b) If the receiver is in possession of real estate or
29 goods subject to a lease, mortgage, or security interest that
30 the receiver has obtained a court order to avoid under
31 paragraph (a), and if the real estate or goods are necessary

1 for the continued operation of the facility under this
2 section, the receiver may apply to the court to set a
3 reasonable rental, price, or rate of interest to be paid by
4 the receiver during the duration of the receivership. The
5 court shall hold a hearing on the application within 15 days.
6 The receiver shall send notice of the application to any known
7 persons who own the property involved at least 10 days before
8 the hearing. Payment by the receiver of the amount determined
9 by the court to be reasonable is a defense to any action
10 against the receiver for payment or for possession of the
11 goods or real estate subject to the lease, security interest,
12 or mortgage involved by any person who received the notice,
13 but the payment does not relieve the owner of the facility of
14 any liability for the difference between the amount paid by
15 the receiver and the amount due under the original lease,
16 security interest, or mortgage involved.

17 (6) The court shall set the compensation of the
18 receiver, which is considered a necessary expense of a
19 receivership.

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

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

24 (9) The court may direct the agency to allocate funds
25 from the Health Care Trust Fund to the receiver, subject to s.
26 400.914.

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

28 (a) The court determines that the receivership is no
29 longer necessary because the conditions that gave rise to the
30 receivership no longer exist or the agency grants the facility
31 a new license; or

1 (b) All of the residents in the facility have been
2 transferred or discharged.

3 (11) Within 30 days after termination, the receiver
4 shall give the court a complete accounting of all property of
5 which the receiver has taken possession, all funds collected,
6 and the expenses of the receivership.

7 (12) This section does not relieve any owner,
8 administrator, or employee of a facility placed in
9 receivership of any civil or criminal liability incurred, or
10 any duty imposed by law, by reason of acts or omissions of the
11 owner, administrator, or employee before the appointment of a
12 receiver; nor does this section suspend during the
13 receivership any obligation of the owner, administrator, or
14 employee for the payment of taxes or other operating and
15 maintenance expenses of the facility or any obligation of the
16 owner, administrator, employee, or any other person for the
17 payment of mortgages or liens. The owner retains the right to
18 sell or mortgage any facility under receivership, subject to
19 the approval of the court that ordered the receivership.

20 Section 17. Section 400.920, Florida Statutes, is
21 created to read:

22 400.920 Contracts.--

23 (1) The presence of each resident in a facility must
24 be covered by a contract, executed at the time of admission or
25 prior thereto, between the licensee and the resident or the
26 resident's designee or legal representative. Each party to the
27 contract shall be provided with a duplicate original thereof,
28 and the licensee shall keep on file in the facility all such
29 contracts. The licensee may not destroy or otherwise dispose
30 of any such contract until 5 years after its expiration or
31

1 such longer period as may be provided in rules adopted under
2 this part.

3 (2) Each contract shall contain express provisions
4 specifically setting forth the services and accommodations to
5 be provided by the facility; the rates or charges; provision
6 for at least 30 days' notice of a rate increase; the rights,
7 duties, and obligations of the residents, other than those
8 specified in s. 400.924; and other matters that the parties
9 consider appropriate. When money is deposited or advanced by a
10 resident in a contract as security for performance of the
11 contract agreement or as advance rent for other than the next
12 immediate rental period:

13 (a) The funds must be held in a banking institution in
14 this state. The funds must be kept separate from the funds and
15 property of the facility; must be deposited in a bank savings
16 association, trust company, or credit union located in this
17 state and, if possible, located in the same district in which
18 the facility is located; must not be represented as part of
19 the assets of the facility on financial statements; and must
20 be used, or otherwise expended, only for the account of the
21 resident.

22 (b) The licensee shall, within 30 days after receipt
23 of advance rent or a security deposit, notify the resident in
24 writing of the manner in which the licensee is holding the
25 advance rent or security deposit and state the name and
26 address of the depository where the moneys are being held. The
27 licensee shall notify residents of the facility's policy on
28 advance deposits.

29 (c) If a licensee agrees to reserve a bed for a
30 resident who is admitted to a medical facility, the resident
31 or the resident's responsible party shall notify the licensee

1 of any change in status which would prevent the resident from
2 returning to the facility. Until such notice is received, the
3 agreed-upon daily rate may be charged by the licensee.

4 (d) The purpose of any advance payment and a refund
5 policy for such payment, including any advance payment for
6 meals, lodging, or personal services, must be stated in the
7 contract.

8 (3) The contract must state whether or not the
9 facility is affiliated with any religious organization, the
10 name of such organization, and its general responsibility to
11 the facility.

12 (4) A contract or provision thereof may not be
13 construed to relieve any licensee of any requirement or
14 obligation imposed upon it by this part or by standards or
15 rules in force pursuant thereto.

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

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

20 400.921 Use of licensed personnel.--

21 (1) Persons under contract to the facility, facility
22 staff, or volunteers, who are licensed according to chapter
23 464, or those persons exempt under s. 464.022(1), and others
24 as defined by rule, may administer medications to residents,
25 take residents' vital signs, manage individual weekly pill
26 organizers for residents who self-administer medication, give
27 prepackaged enemas ordered by a physician, observe residents,
28 document observations on the appropriate resident's record,
29 report observations to the resident's physician, and contract
30 or allow residents or a resident's representative, designee,
31 surrogate, guardian, or attorney-in-fact to contract with a

1 third party, provided that residents meet the criteria for
2 appropriate placement as defined in s. 400.922. Nursing
3 assistants certified under s. 400.211 may take residents'
4 vital signs as directed by a licensed nurse or physician.

5 (2) All staff in facilities licensed under this part
6 shall exercise their professional responsibility to observe
7 residents, to document observations on the appropriate
8 resident's record, and to report the observations to the
9 resident's physician. However, the facility owner or
10 administrator is responsible for determining that the resident
11 receiving services is appropriate for residence in the
12 facility.

13 (3) In an emergency situation, licensed personnel may
14 carry out their professional duties under chapter 464 until
15 emergency medical personnel assume responsibility for care.

16 Section 19. Section 400.922, Florida Statutes, is
17 created to read:

18 400.922 Appropriateness of placements; examination of
19 residents.--

20 (1) The facility owner or administrator is responsible
21 for determining the appropriateness of admission of an
22 individual to the facility and for determining the continued
23 appropriateness of residence of an individual in the facility.
24 Such a determination must be based upon an assessment of the
25 strengths, needs, and preferences of the resident, the care
26 and services offered or arranged for by the facility in
27 accordance with facility policy, and any limitations in law or
28 rule related to admission criteria or continued residency for
29 the type of license held by the facility under this part. A
30 resident may not be moved from one facility to another without
31 consultation with and agreement by the resident or, if

1 applicable, the resident's representative or designee or the
2 resident's family, guardian, surrogate, or attorney-in-fact.

3 (2) A physician or nurse practitioner employed by or
4 under contract with a facility to provide an initial
5 examination for admission purposes may not have a financial
6 interest in the facility.

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

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

30 (5) If a medical examination has not been completed
31 within 60 days before the admission of the resident, a

1 licensed physician or licensed nurse practitioner shall
2 examine the resident and complete a medical examination form
3 provided by the agency within 30 days following the resident's
4 admission, to enable the facility owner or administrator to
5 determine the appropriateness of the admission. The medical
6 examination form is to become a permanent part of the record
7 of the resident at the facility and must be made available to
8 the agency during inspection or upon request.

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

31

1 (7) A resident who requires 24-hour nursing
2 supervision may not be retained in a facility licensed under
3 this part.

4 Section 20. Section 400.923, Florida Statutes, is
5 created to read:

6 400.923 Property and personal affairs of residents;
7 penalty.--

8 (1)(a) A resident shall be given the option of using
9 his or her own belongings, as space permits; choosing a
10 roommate; and, whenever possible, unless the resident is
11 adjudicated incompetent or incapacitated under state law,
12 managing his or her own affairs.

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

22 (2) A facility, or an owner, administrator, employee,
23 or representative thereof, may not act as the guardian,
24 trustee, or conservator for any resident or for any of the
25 resident's property.

26 (3) A facility, upon mutual consent with the resident,
27 shall provide for the safekeeping in the facility of personal
28 effects not in excess of \$500 and funds of the resident not in
29 excess of \$200 cash. A facility shall keep complete and
30 accurate records of all such funds and personal effects
31 received for safekeeping. When a resident is absent from a

1 facility for 24 hours or more, the facility may provide for
2 the safekeeping of the resident's personal effects in excess
3 of \$500.

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

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

22 (a) Intentionally withholds a resident's personal
23 funds or personal property, or who demands, beneficially
24 receives, or contracts for payment of all or any part of a
25 resident's personal property in satisfaction of the facility
26 rate for supplies and services; or

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

30
31

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

3 (6) When a resident dies, a licensee must return all
4 refunds, funds, and property to the resident's spouse or adult
5 next of kin named in a beneficiary designation form provided
6 by the facility to the resident. If the resident has no spouse
7 or adult next of kin, or such person cannot be located, funds
8 that are due the resident must be placed in an
9 interest-bearing account and must be safeguarded until such
10 time as the funds and property are disbursed pursuant to the
11 Florida Probate Code. The funds shall be kept separate from
12 the funds and property of the facility and of other residents
13 of the facility. If the funds of the deceased resident are not
14 disbursed pursuant to the Florida Probate Code within 2 years
15 after the resident's death, the funds must be deposited in the
16 Health Care Trust Fund as provided in s. 400.914.

17 Section 21. Section 400.924, Florida Statutes, is
18 created to read:

19 400.924 Resident bill of rights.--

20 (1) A resident of a facility shall not be deprived of
21 any civil or legal rights, benefits, or privileges guaranteed
22 by law, the State Constitution, or the United States
23 Constitution as a resident of a facility. Every resident of a
24 facility has the right to:

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

27 (b) Be treated with consideration and respect and with
28 due recognition of personal dignity, individuality, and the
29 need for privacy.

30 (c) Retain and use his or her own clothes and other
31 personal property in his or her immediate living quarters, so

1 as to maintain individuality and personal dignity, except when
2 the facility can demonstrate that this would be unsafe,
3 impracticable, or an infringement upon the rights of other
4 residents.

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

11 (e) Freedom to participate in and benefit from
12 community services and activities and to achieve the highest
13 possible level of independence, autonomy, and interaction
14 within the community.

15 (f) Manage his or her financial affairs.

16 (g) Reasonable opportunity for regular exercise
17 several times a week and to be outdoors at regular and
18 frequent intervals, except when prevented by inclement
19 weather.

20 (h) Exercise civil and religious liberties, including
21 the right to make independent personal decisions. A religious
22 beliefs or practices, or any attendance at religious services,
23 may not be imposed upon any resident.

24 (i) Access to adequate and appropriate health care
25 consistent with established and recognized standards within
26 the community.

27 (j) At least 30 days' notice of relocation or
28 termination of residency from the facility, unless, for
29 medical reasons, the resident is certified by a physician to
30 require emergency relocation to a facility that provides a
31 more skilled level of care or unless the resident engages in a

1 pattern of conduct that is harmful or offensive to other
2 residents. In the case of a resident who has been adjudicated
3 mentally incapacitated, the guardian shall be given at least
4 30 days' notice of a nonemergency relocation or residency
5 termination. Reasons for relocation must be set forth in
6 writing. To terminate the residency of an individual without
7 the notice required in this paragraph, the facility must show
8 good cause in a court of competent jurisdiction.

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

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

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

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

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

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

7 (c) Files a civil action alleging a violation of this
8 part or notifies a state attorney or the Attorney General of a
9 possible violation.

10
11 Any facility that terminates the residency of an individual
12 who participates in any of the activities specified in this
13 subsection shall show good cause in a court of competent
14 jurisdiction.

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

24 Section 22. Section 400.925, Florida Statutes, is
25 created to read:

26 400.925 Civil actions to enforce rights.--Any person
27 or resident whose rights as specified in this part are
28 violated has a cause of action against any facility owner,
29 administrator, or staff responsible for the violation. The
30 action may be brought by the resident or the resident's
31 guardian, or by a person or organization acting on behalf of a

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

19 Section 23. Section 400.926, Florida Statutes, is
20 created to read:

21 400.926 Right of entry and inspection.--Any designated
22 officer or employee of the agency, or the state or local fire
23 marshal, may enter unannounced upon and into the premises of
24 any facility licensed under this part in order to determine
25 the state of compliance with this part and the rules or
26 standards in force under this part. The right of entry and
27 inspection also extends to any premises that the agency has
28 reason to believe are being operated or maintained as a
29 facility without a license; but such an entry or inspection
30 may not be made without the permission of the owner or person
31 in charge thereof unless a warrant is first obtained from the

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

25 Section 24. Section 400.927, Florida Statutes, is
26 created to read:

27 400.927 Closing of facility; notice; penalty.--

28 (1) When a facility voluntarily discontinues
29 operation, it must inform the agency in writing at least 90
30 days before discontinuing the operation. The facility must
31 also inform each resident, next of kin, or legal

1 representative of the fact and the proposed time of the
2 discontinuance, following the notification requirements
3 provided in s. 400.924(1)(j). If a resident has no person to
4 represent him or her, the facility is responsible for referral
5 of that resident to an appropriate social service agency for
6 placement.

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

14 (3) Immediately upon discontinuance of the operation
15 of a facility, the owner shall surrender the license therefor
16 to the agency, and the license shall be canceled.

17 (4) The agency may levy a fine in an amount not to
18 exceed \$10,000 upon each person or business entity that owns
19 any interest in a facility that terminates operation without
20 providing notice to the agency and the facility's residents at
21 least 30 days before operation is discontinued. This fine must
22 not be levied against any facility that is involuntarily
23 closed at the initiation of the agency. The agency shall use
24 the proceeds of the fines to operate the facility until all
25 residents are relocated and shall deposit any balance of the
26 proceeds into the Health Care Trust Fund established under s.
27 400.914.

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

30 400.928 Rules establishing standards.--
31

1 (1) Pursuant to the intention of the Legislature to
2 provide safe and sanitary facilities, rules to implement this
3 part must include reasonable and fair minimum standards in
4 relation to:

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

27 (b) The preparation and annual update of a
28 comprehensive emergency management plan. Such standards must
29 be included in the rules adopted by the department after
30 consultation with the Department of Community Affairs. At a
31 minimum, the rules must provide for plan components that

1 address emergency evacuation; transportation; adequate
2 sheltering arrangements; postdisaster activities, including
3 emergency power, food, and water; postdisaster transportation;
4 supplies; staffing; emergency equipment; individual
5 identification of residents and transfer of records;
6 communicating with families; and responding to family
7 inquiries. The comprehensive emergency management plan is
8 subject to review and approval by the local emergency
9 management agency. During its review, the local emergency
10 management agency shall ensure that the following agencies, at
11 a minimum, are given the opportunity to review the plan: the
12 agency, the division, and the Department of Community Affairs.
13 Also, appropriate volunteer organizations must be given the
14 opportunity to review the plan. The local emergency management
15 agency shall complete its review within 60 days and either
16 approve the plan or advise the facility of necessary
17 revisions.

18 (c) The number and qualifications of all personnel who
19 have responsibility for the care of residents. The rules must
20 require adequate staff to provide for the safety of all
21 residents.

22 (2) A representative of the agency shall conduct
23 unannounced inspections of facilities licensed under this part
24 to determine compliance with the provisions of this part.

25 (a) The number of these inspections conducted annually
26 must be equal to the number of licensed facilities.

27 (b) Facilities must be selected for inspection through
28 a random process.

29 (c) A report of the findings of these inspections must
30 be forwarded to the division.

31

1 (d) Findings of substantial noncompliance with this
2 part and with rules adopted under this part necessitate that
3 an additional review be conducted under s. 413.605.

4 (e) Reports resulting from reviews or inspections
5 constitute a basis for administrative action against the
6 licensee by the agency. However, this section is not a
7 limitation upon the power of the agency to take action to
8 enforce this part and the rules adopted under this part.

9 (3) The department shall impose a fee upon any person
10 who requests a copy of this part or rules adopted under this
11 part. The fee must not exceed the actual cost of duplication
12 and postage.

13 Section 26. Section 400.929, Florida Statutes, is
14 created to read:

15 400.929 Maintenance of records; reports.--

16 (1) Each facility shall maintain, as public
17 information available for public inspection under such
18 conditions as the agency prescribes, records containing copies
19 of all inspection reports pertaining to the facility that have
20 been issued by the agency to the facility. Copies of
21 inspection reports must be retained in the records for 5 years
22 from the date the reports are filed or issued.

23 (2) Each facility shall post a copy of the last
24 inspection report of the agency, including any report
25 resulting from an additional review performed under s. 413.605
26 for that facility, in a prominent location within the facility
27 so that the report is accessible to all residents and to the
28 public. Upon request, the facility shall also provide a copy
29 of the report to any resident of the facility or to an
30 applicant for admission to the facility.

31

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

3 413.605 Advisory council on brain and spinal cord
4 injuries.--

5 (4) The council shall:

6 (a) Provide advice and expertise to the division in
7 the preparation, implementation, and periodic review of the
8 brain and spinal cord injury program as referenced in s.
9 413.49.

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

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

31

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

6 3. Onsite investigations by the committee shall be
7 funded by the Health Care Trust Fund.

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

14 Section 28. Section 413.273, Florida Statutes, is
15 amended to read:

16 413.273 Per diem, travel expenses, ~~personal care~~
17 ~~attendants~~, and accommodations interpreters for council
18 members; conflicts of interest; removal.--

19 (1) Members of any council established under this part
20 are entitled to per diem and travel expenses for all
21 activities required by the attendance at council ~~meetings~~ in
22 accordance with ~~the provisions of~~ s. 112.061. Reasonable
23 expenses for accommodations such as personal care attendants
24 and interpreters needed by members because of their
25 disabilities during all activities required by the attendance
26 at council ~~must~~ ~~meetings shall~~ be reimbursed, or the
27 accommodations must be provided by the division. ~~A No~~ member
28 may not ~~shall~~ receive any compensation for the performance of
29 duties specified in, or arising out of, her or his duties as a
30 council member under this part except as otherwise specified
31 in this part.

1 (2) A ~~No~~ member of a any council established under
2 this part may not ~~shall~~ cast a vote on any matter that would
3 provide direct financial benefit to the member or create a
4 conflict of interest under state law.

5 (3) Members of any council established under this part
6 may be removed from office by the appointing authority for
7 malfeasance, misfeasance, neglect of duty, incompetence, or
8 permanent inability to perform official duties or for pleading
9 nolo contendere to, or being found guilty of, a crime.

10 Malfeasance includes ~~shall include~~, but is not limited to,
11 violation of any specific prohibitions within this part.

12 Section 29. Subsection (1) of section 413.395, Florida
13 Statutes, is amended, and subsection (13) is added to that
14 section, to read:

15 413.395 Florida Independent Living Council.--

16 (1) There is created the Florida Independent Living
17 Council to assist the division and the Division of Blind
18 Services of the Department of Labor and Employment Security,
19 as well as other state agencies and local planning and
20 administrative entities assisted under Title VII of the act,
21 in the expansion and development of statewide independent
22 living policies, programs, and concepts and to recommend
23 improvements for such programs and services. ~~To ensure~~
24 ~~consistency with the provisions of the act, as amended,~~The
25 ~~Florida Independent Living~~ council shall function
26 independently of the division and is ~~shall be~~ assigned to the
27 division for administrative purposes only. The council may
28 elect to be incorporated as a Florida not-for-profit
29 corporation and, upon such election, shall be incorporated by
30 the division for the purposes stated in this section. The
31

1 council's appointed members constitute the board of directors
2 for the corporation.

3 (13) In addition to those travel expenses and other
4 expenses covered by s. 413.273(1), and consistent with the
5 procedures therein, the council may reimburse members for
6 child care expenses incurred as a result of activities
7 required by the council. The council may pay reasonable
8 compensation to a member of the council if the member is not
9 employed or must forfeit wages from other employment for each
10 day the member is engaged in performing the duties of the
11 council.

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

14 413.405 Rehabilitation Advisory Council.--There is
15 created the Rehabilitation Advisory Council to assist the
16 division in the planning and development of statewide
17 rehabilitation programs and services, to recommend
18 improvements to such programs and services, and to perform the
19 functions listed in this section.

20 (11) In addition to those travel expenses and other
21 expenses covered by s. 413.273(1), and consistent with the
22 procedures therein, the council may ~~shall~~ reimburse members of
23 the council for ~~reasonable and necessary expenses of attending~~
24 council meetings and performing council duties, including
25 child care expenses incurred as a result of activities
26 required by the council ~~and personal assistance services, as~~
27 provided in and subject to the requirements of s. ~~112.061~~.
28 The council may pay reasonable compensation to a member of the
29 council if the ~~such~~ member is not employed or must forfeit
30 wages from other employment for each day the member is engaged
31 in performing the duties of the council.

