

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
 2 Committee

3 Representative Magar offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Sections 400.9970 through 400.9984, Florida
 8 Statutes, are designated as part XI of chapter 400, Florida
 9 Statutes, entitled "Transitional Living Facilities."

10 Section 2. Section 400.9970, Florida Statutes, is created
 11 to read:

12 400.9970 Legislative intent.—It is the intent of the
 13 Legislature to provide for the licensure of transitional living
 14 facilities and require the development, establishment, and
 15 enforcement of basic standards by the agency to ensure quality
 16 of care and services to clients in transitional living
 17 facilities. It is the policy of the state that the least
 18 restrictive appropriate available treatment be used based on the
 19 individual needs and best interests of the client and consistent
 20 with optimum improvement of the client's condition. The goal of

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21 a transitional living program for individuals who have brain or
22 spinal cord injuries is to assist each individual who has such
23 an injury to achieve a higher level of independent functioning
24 and to enable that individual to reenter the community. It is
25 also the policy of this state that the use of restraint and
26 seclusion on clients is justified only as an emergency safety
27 measure to be used in response to danger to the client or
28 others. It is, therefore, the intent of the Legislature to
29 achieve an ongoing reduction in the use of restraint and
30 seclusion in programs and facilities serving persons with brain
31 injury or spinal cord injuries.

32 Section 3. Section 400.9971, Florida Statutes, is created
33 to read:

34 400.9971 Definitions.—As used in this part, the term:

35 (1) "Agency" means the Agency for Health Care
36 Administration.

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

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

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

46 (5) "Physical restraint" means any manual method to
47 restrict freedom of movement of or normal access to an
48 individual's body, or a physical or mechanical device, material,

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49 or equipment attached or adjacent to the individual's body so
50 that he or she cannot easily remove the restraint and that
51 restricts freedom of movement of or normal access to one's body,
52 including, but not limited to, a half-bed rail, a full-bed rail,
53 a geriatric chair, and a posey restraint. The term includes any
54 device that was not specifically manufactured as a restraint but
55 that has been altered, arranged, or otherwise used for this
56 purpose. The term does not include bandage material used for the
57 purpose of binding a wound or injury.

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

66 (7) "Transitional living facility" means a site where
67 specialized health care services are provided, including, but
68 not limited to, rehabilitative services, behavior modification,
69 community reentry training, aids for independent living, and
70 counseling to individuals with brain-injuries or spinal-cord-
71 injuries. The term does not require a provider otherwise
72 licensed by the agency to obtain a separate transitional living
73 facility license to serve persons with brain or spinal cord
74 injuries as long as the services provided are within the scope
75 of their license.

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76 Section 4. Section 400.9972, Florida Statutes, is created
77 to read:

78 400.9972 License required; fee; application.—

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

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

90 (3) Each applicant for licensure must provide:

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

95 (b) Proof of liability insurance as defined in s. 624.605.

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

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

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

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103 (f) The facility must attain and continuously maintain
104 accreditation by an accrediting organization specializing in
105 evaluating rehabilitation facilities whose standards incorporate
106 comparable licensure regulations required by the state.

107 Applicants for licensure as a transitional living facility must
108 acquire accreditation within 12 months of the issuance of an
109 initial license. The Agency shall accept the accreditation
110 survey report of the accrediting organization in lieu of

111 conducting a licensure inspection provided that the standards
112 included in the survey report are determined by the agency to
113 document the facility is in substantial compliance with state
114 licensure requirements. The facility must submit to the agency,
115 within 10 days of receipt, a copy of any accreditation survey
116 report and evidence of the accreditation decision subsequent to
117 a survey by the accrediting organization on the facility.

118 Nothing in this part shall preclude the agency from conducting
119 periodic inspections of transitional living facilities to ensure
120 compliance with all licensure requirements, and as it deems
121 necessary to carry out the functions of the agency. Inspections
122 may be conducted to assure compliance licensure requirements of
123 this part, to validate the inspection process of accrediting
124 organizations, to respond to licensure complaints or to protect
125 the public health and safety.

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

128 400.9973 Client admission, transfer, and discharge.-

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

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

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

140 (a) A motor deficit.

141 (b) A sensory deficit.

142 (c) Bowel and bladder dysfunction.

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

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

154 (5) A client admitted to a transitional living facility
155 must be admitted upon prescription by a licensed physician and

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156 must remain under the care of a licensed physician for the
157 duration of the client's stay in the facility.

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

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

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

167 (b) Is a danger to self or others as determined by a
168 physician or mental health practitioner licensed under chapter
169 490 or chapter 491, unless the facility provides adequate
170 staffing and support to ensure patient safety;

171 (c) Is bedridden; or

172 (d) Requires 24-hour nursing supervision.

173 (8) If the client meets the admission criteria, the
174 medical or nursing director of the facility must complete an
175 initial evaluation of the client's functional skills, behavioral
176 status, cognitive status, educational or vocational potential,
177 medical status, psychosocial status, sensorimotor capacity, and
178 other related skills and abilities within the first 72 hours
179 after the client's admission to the facility. An initial
180 comprehensive treatment plan that delineates services to be
181 provided and appropriate sources for such services must be
182 implemented within the first 4 days after admission.

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183 (9) Each transitional living facility shall develop a
184 discharge plan for each client before or upon admission to the
185 facility. The discharge plan must identify the intended
186 discharge site and possible alternative discharge sites. For
187 each discharge site identified, the discharge plan must identify
188 the skills, behaviors, and other conditions that the client must
189 achieve to be appropriate for discharge. Discharge plans must be
190 reviewed and updated as necessary, but no less often than once
191 monthly.

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

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

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

206 400.9974 Client comprehensive treatment plans; client
207 services.—

208 (1) Each transitional living facility shall develop a
209 comprehensive treatment plan for each client as soon as
210 possible, but no later than 30 days following development of the

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211 initial comprehensive treatment plan. Comprehensive treatment
212 plans must be reviewed and updated if the client fails to meet
213 projected improvements in the plan or if a significant change in
214 the client's condition occurs. Treatment plans must be reviewed
215 and updated no less often than once monthly. Comprehensive
216 treatment plans must be developed by an interdisciplinary team
217 consisting of the case manager, the program director, the nurse,
218 and appropriate therapists. The client or, if appropriate, the
219 client's representative must be included in developing the
220 comprehensive treatment plan.

221 (2) The comprehensive treatment plan must include:

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

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

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

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

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

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239 living facility shall discharge the client as soon as
240 practicable.

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

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

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

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

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

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

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

261 400.9975 Licensee responsibilities.-

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

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

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

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

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

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

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

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

299 (h) Exercises civil and religious liberties, including the
300 right to independent personal decisions. No religious belief or
301 practice, including attendance at religious services, shall be
302 imposed upon any client.

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

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

318 (2) The licensee shall:

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

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

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

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

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

337 (3) The administrator of a facility shall ensure that a
338 written notice of licensee responsibilities is posted in a
339 prominent place in each building where clients reside and read
340 or explained to clients who cannot read. This notice shall
341 include the statewide toll-free telephone number for reporting
342 complaints to the agency, must be provided to clients in a
343 manner that is clearly legible, and must include the words: "To
344 report a complaint regarding the services you receive, please
345 call toll-free ...[telephone number]... or Disability Rights
346 Florida ...[telephone number]..."; and the statewide toll-free

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347 telephone number for the central abuse hotline must be provided
348 to clients in a manner that is clearly legible and must include
349 the words: "To report abuse, neglect or exploitation, please
350 call toll-free ...[telephone number where complaints may be
351 lodged]...." The licensee must ensure a client's access to a
352 telephone, where telephone numbers required in this subsection
353 are readily available, to call the agency, central abuse
354 hotline, or Disability Rights Florida.

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

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

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

363 (5) Before or at the time of admission, the client and the
364 client's representative shall be provided with a copy of the
365 licensee's responsibilities as provided in this section
366 including grievance procedures and the phone numbers provided in
367 subsection (3).

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

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

374 400.9976 Medication practices.-

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

384 (2) If the interdisciplinary team determines that self-
385 administration of medications is an appropriate objective, and
386 if the physician does not specify otherwise, a client must be
387 taught to self-administer his or her medication without a staff
388 person. This includes all forms of administration, including
389 orally, via injection, and via suppository. The client's
390 physician must be informed of the interdisciplinary team's
391 decision that self-administration of medications is an objective
392 for the client. A client may not self-administer medication
393 until he or she demonstrates the competency to take the correct
394 medication in the correct dosage at the correct time, to respond
395 to missed doses, and to contact an appropriate person with
396 questions.

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

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

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

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

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

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

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430 neglect, mistreatment, or exploitation is likely to occur,
431 including:

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

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

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

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

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

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458 necessary corrective action depending on the results of the
459 investigation.

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

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

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

468 400.9978 Restraints and seclusion; client safety.—

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

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

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

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

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

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

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

502 (a) The continued need for the medication.

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

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

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

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

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

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

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

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

532 400.9979 Background screening; administration and
533 management.-

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

537 (2) The licensee shall maintain personnel records for each
538 staff member that contain, at a minimum, documentation of
539 background screening, if applicable, a job description,
540 documentation of compliance with all training requirements of

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541 this part or applicable rule, the employment application,
542 references, a copy of all job performance evaluations, and, for
543 each staff member who performs services for which licensure or
544 certification is required, a copy of all licenses or
545 certification held by the staff member.

546 (3) The licensee must:

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

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

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

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

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

561 (f) Designate in writing a person to be responsible when
562 the program director is absent from the facility for more than
563 24 hours.

564 (g) Obtain approval of the comprehensive emergency
565 management plan, pursuant to s. 400.9981(2)(e), from the local
566 emergency management agency. Pending the approval of the plan,
567 the local emergency management agency shall ensure that the
568 following agencies, at a minimum, are given the opportunity to

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569 review the plan: the Department of Health, the Agency for Health
570 Care Administration, and the Division of Emergency Management.
571 Appropriate volunteer organizations must also be given the
572 opportunity to review the plan. The local emergency management
573 agency shall complete its review within 60 days and either
574 approve the plan or advise the licensee of necessary revisions.

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

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

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

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

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

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596 Section 12. Section 400.9980, Florida Statutes, is created
597 to read:

598 400.9980 Property and personal affairs of clients.-

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

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

612 (3) A licensee, administrator, employee, or representative
613 thereof may:

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

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

622 (c) Act as the power of attorney for a client if the
623 licensee has filed a surety bond with the agency in an amount

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624 equal to twice the average monthly income of the client, plus
625 the value of any client's property under the control of the
626 attorney in fact.

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

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

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651 hours or more, the licensee may provide for the safekeeping of
652 the client's personal effects of a value in excess of \$1,000.

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

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

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

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679 2. Borrows from or pledges any personal funds of a client,
680 other than the amount agreed to by written contract under s.
681 429.24,

682
683 commits a misdemeanor of the first degree, punishable as
684 provided in s. 775.082 or s. 775.083.

685 (b) Any licensee, administrator, employee, or
686 representative thereof who is granted power of attorney for any
687 client of the facility and who misuses or misappropriates funds
688 obtained through this power commits a felony of the third
689 degree, punishable as provided in s. 775.082, s. 775.083, or s.
690 775.084.

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

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706 shall be deposited in the Health Care Trust Fund administered by
707 the agency.

708 (8) The agency, by rule, may clarify terms and specify
709 procedures and documentation necessary to administer the
710 provisions of this section relating to the proper management of
711 clients' funds and personal property and the execution of surety
712 bonds.

713 Section 13. Section 400.9981, Florida Statutes, is created
714 to read:

715 400.9981 Rules establishing standards.-

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

722 (2) The agency may adopt and enforce rules to implement
723 this part and part II of chapter 408, which shall include
724 reasonable and fair criteria in relation to:

725 (a) The location of transitional living facilities.

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

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

736 (d) Services provided to clients of transitional living
737 facilities.

738 (e) The preparation and annual update of a comprehensive
739 emergency management plan in consultation with the Division of
740 Emergency Management. At a minimum, the rules must provide for
741 plan components that address emergency evacuation
742 transportation; adequate sheltering arrangements; postdisaster
743 activities, including provision of emergency power, food, and
744 water; postdisaster transportation; supplies; staffing;
745 emergency equipment; individual identification of clients and
746 transfer of records; communication with families; and responses
747 to family inquiries.

748 Section 14. Section 400.9982, Florida Statutes, is created
749 to read:

750 400.9982 Violations; penalties.-

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

756 (a) Class "I" violations are defined in s. 408.813. The
757 agency shall issue a citation regardless of correction and
758 impose an administrative fine of \$5,000 for an isolated
759 violation, \$7,500 for a patterned violation, and \$10,000 for a
760 widespread violation. Violations may be identified and a fine

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761 must be levied notwithstanding the correction of the deficiency
762 giving rise to the violation.

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

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

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

781 Section 15. Section 400.9983, Florida Statutes, is created
782 to read:

783 400.9983 Receivership proceedings.—The agency may apply s.
784 429.22 with regard to receivership proceedings for transitional
785 living facilities.

786 Section 16. Section 400.9984, Florida Statutes, is created
787 to read:

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

797 Section 17. Section 400.805, Florida Statutes, is
798 repealed. All transitional living facilities licensed under s.
799 400.805, F.S., on or before July 1, 2013, shall be licensed
800 under the provisions of this act.

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

803 381.745 Definitions; ss. 381.739–381.79.—As used in ss.
804 381.739–381.79, the term:

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

810 Section 19. Section 381.75, Florida Statutes, is amended
811 to read:

812 381.75 Duties and responsibilities of the department, ~~of~~
813 ~~transitional living facilities, and of residents.—Consistent~~
814 with the mandate of s. 381.7395, the department shall develop
815 and administer a multilevel treatment program for individuals

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816 who sustain brain or spinal cord injuries and who are referred
817 to the brain and spinal cord injury program.

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

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

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

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

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

842 (6) The department shall develop standards for designation
843 of transitional living facilities to provide transitional living

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844 services for individuals who participate in the brain and spinal
845 cord injury program. ~~the opportunity to adjust to their~~
846 ~~disabilities and to develop physical and functional skills in a~~
847 ~~supported living environment.~~

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

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

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

869 ~~(d) All residents shall use the transitional living~~
870 ~~facility as a temporary measure and not as a permanent home or~~
871 ~~domicile. The transitional living facility shall develop an~~

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872 ~~initial treatment plan for each resident within 3 days after the~~
873 ~~resident's admission. The transitional living facility shall~~
874 ~~develop a comprehensive plan of treatment and a discharge plan~~
875 ~~for each resident as soon as practical, but no later than 30~~
876 ~~days after the resident's admission. Each comprehensive~~
877 ~~treatment plan and discharge plan must be reviewed and updated~~
878 ~~as necessary, but no less often than quarterly. This subsection~~
879 ~~does not require the discharge of an individual who continues to~~
880 ~~require any of the specialized services described in paragraph~~
881 ~~(c) or who is making measurable progress in accordance with that~~
882 ~~individual's comprehensive treatment plan. The transitional~~
883 ~~living facility shall discharge any individual who has an~~
884 ~~appropriate discharge site and who has achieved the goals of his~~
885 ~~or her discharge plan or who is no longer making progress toward~~
886 ~~the goals established in the comprehensive treatment plan and~~
887 ~~the discharge plan. The discharge location must be the least~~
888 ~~restrictive environment in which an individual's health, well-~~
889 ~~being, and safety is preserved.~~

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

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

895 381.78 Advisory council on brain and spinal cord
896 injuries.—

897 (4) The council shall:

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898 ~~(a)~~ Provide advice and expertise to the department in the
899 preparation, implementation, and periodic review of the brain
900 and spinal cord injury program.

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

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

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

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925 ~~3. Onsite investigations by the committee shall be funded~~
926 ~~by the Health Care Trust Fund.~~

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

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

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

935 408.802 Applicability.—The provisions of this part apply
936 to the provision of services that require licensure as defined
937 in this part and to the following entities licensed, registered,
938 or certified by the agency, as described in chapters 112, 383,
939 390, 394, 395, 400, 429, 440, 483, and 765:

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

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

944 408.820 Exemptions.—Except as prescribed in authorizing
945 statutes, the following exemptions shall apply to specified
946 requirements of this part:

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

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

951 400.93 Licensure required; exemptions; unlawful acts;
952 penalties.—

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

959 (a) Providers operated by the Department of Health or
960 Federal Government.

961 (b) Nursing homes licensed under part II.

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

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

965 (e) Hospices licensed under part IV.

966 (f) Intermediate care facilities, homes for special
967 services, and transitional living facilities licensed under part
968 V.

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

970 (h)~~(g)~~ Hospitals and ambulatory surgical centers licensed
971 under chapter 395.

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

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

977 (k)~~(j)~~ Pharmacies licensed under chapter 465.

978 Section 24. This act shall take effect July 1, 2013.
979
980

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

Remove everything before the enacting clause and insert:

An act relating to transitional living facilities; creating part XI of ch. 400, F.S., entitled "Transitional Living Facilities"; creating s. 400.9970, F.S.; providing legislative intent; creating s. 400.9971, F.S.; providing definitions; creating s. 400.9972, F.S.; requiring the licensure of transitional living facilities; providing fees; providing license application requirements; creating s. 400.9973, F.S.; providing requirements for transitional living facilities relating to client admission, transfer, discharge, and length of residency; creating s. 400.9974, F.S.; requiring a comprehensive treatment plan to be developed for each client; providing plan requirements; creating s. 400.9975, F.S.; providing licensee responsibilities; providing notice requirements; prohibiting a licensee or employee of a facility from serving notice upon a client to leave the premises or take other retaliatory action; requiring the client and client's representative to be provided with certain information; requiring the licensee to develop and implement certain policies and procedures; creating s. 400.9976, F.S.; providing licensee requirements relating to medication practices; creating s. 400.9977, F.S.; providing requirements for the screening of potential employees and monitoring of employees for the protection of clients; requiring licensees to implement certain procedures; creating s. 400.9978, F.S.; providing requirements for the use of physical restraints and chemical restraint medication on clients; creating s. 400.9979,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1109 (2013)

Amendment No.

1009 F.S.; providing background screening requirements; requiring the
1010 licensee to maintain certain personnel records; providing
1011 administrative responsibilities for licensees; providing
1012 recordkeeping requirements; creating s. 400.9980, F.S.;
1013 providing requirements relating to property and personal affairs
1014 of clients; providing requirements for a licensee with respect
1015 to obtaining surety bonds; providing recordkeeping requirements
1016 relating to the safekeeping of personal effects; providing
1017 requirements for trust funds received by licensee and credited
1018 to the client; providing a penalty for certain misuse of a
1019 resident's personal needs allowance; providing criminal
1020 penalties for violations; providing for the disposition of
1021 property in the event of the death of a client; authorizing the
1022 Agency for Health Care Administration to adopt rules; creating
1023 s. 400.9981, F.S.; requiring the agency to adopt and enforce
1024 certain rules; creating s. 400.9982, F.S.; providing procedures
1025 relating to violations and penalties; providing administrative
1026 fines for specified classes of violations; creating s. 400.9983,
1027 F.S.; authorizing the agency to apply certain provisions with
1028 regard to receivership proceedings; creating s. 400.9984, F.S.;
1029 requiring the Agency for Health Care Administration, the
1030 Department of Health, the Agency for Persons with Disabilities,
1031 and the Department of Children and Families to develop
1032 electronic systems for certain purposes; repealing s. 400.805,
1033 F.S., relating to transitional living facilities; amending s.
1034 381.745, F.S.; revising the definition of transitional living
1035 facility; amending s. 381.75, F.S.; revising the title; revising
1036 the duties and responsibilities of the Department of Health

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1109 (2013)

Amendment No.

1037 relating to transitional living facilities; amending s. 381.78,
1038 F.S.; revising the duties of the Advisory Council on brain and
1039 spinal cord injuries; amending ss. 408.802, 408.820, and 400.93,
1040 F.S.; conforming provisions to changes made by the act;
1041 providing an effective date.