

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	_____	(Y/N)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

1 Committee/Subcommittee hearing bill: Health Innovation
2 Subcommittee
3 Representative Magar offered the following:

Amendment (with title amendment)

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

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20 with optimum improvement of the client's condition. The goal of
21 a transitional living program for individuals who have brain or
22 spinal cord injuries is to assist each individual who has such a
23 disability to achieve a higher level of independent functioning
24 and to enable that person to reenter the community.

25 Section 3. Section 400.9971, Florida Statutes, is created
26 to read:

27 400.9971 Definitions.—As used in this part, the term:

28 (1) "Agency" means the Agency for Health Care
29 Administration.

30 (2) "Chemical restraint" means a pharmacologic drug that
31 physically limits, restricts, or deprives an individual of
32 movement or mobility and is used for client protection or safety
33 and is not required for the treatment of medical conditions or
34 symptoms.

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

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

39 (5) "Licensee" means an individual issued a license by
40 the agency.

41 (6) "Physical restraint" means any manual method or
42 physical or mechanical device, material, or equipment attached
43 or adjacent to the individual's body so that he or she cannot
44 easily remove the restraint and which restricts freedom of
45 movement or normal access to one's body, including, but not
46 limited to, a half-bed rail, a full-bed rail, a geriatric chair,
47 and a posey restraint. The term includes any device that was not

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48 specifically manufactured as a restraint but that has been
49 altered, arranged, or otherwise used for this purpose. The term
50 does not include bandage material used for the purpose of
51 binding a wound or injury.

52 (7) "Transitional living facility" means a site where
53 specialized health care services are provided, including, but
54 not limited to, rehabilitative services, behavior modification,
55 community reentry training, aids for independent living, and
56 counseling to brain injured persons and spinal-cord-injured
57 persons. The term does not include a hospital licensed under
58 chapter 395 or any federally operated hospital or facility.

59 Section 4. Section 400.9972, Florida Statutes, is created
60 to read:

61 400.9972 License required; fee; application.-

62 (1) The requirements of part II of chapter 408 apply to
63 the provision of services that require licensure pursuant to
64 this part and part II of chapter 408 and to entities licensed by
65 or applying for such licensure from the agency pursuant to this
66 part. A license issued by the agency is required for the
67 operation of a transitional living facility in this state.

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

73 (3) Each applicant for licensure must provide:

74 (a) The location of the facility for which a license is
75 sought and documentation, signed by the appropriate local

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76 government official, that states that the applicant has met
77 local zoning requirements.

78 (b) Proof of liability insurance as defined in s.
79 624.605.

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

83 (d) Proof that the facility has received a satisfactory
84 fire safety inspection.

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

87 Section 5. Section 400.9973, Florida Statutes, is created
88 to read:

89 400.9973 Client admission, transfer, and discharge.—

90 (1) Each transitional living facility must have written
91 policies and procedures governing the admission, transfer, and
92 discharge of clients.

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

96 (3) A client admitted to a transitional living facility
97 must have a brain or spinal cord injury,, such as a lesion to
98 the spinal cord or cauda equina syndrome, with evidence of
99 significant involvement of two of the following deficits or
100 dysfunctions:

101 (a) Motor deficit.

102 (b) Sensory deficit.

103 (c) Bowel and bladder dysfunction.

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104 (d) An injury to the skull, brain, or its covering that
105 produces an altered state of consciousness or anatomic motor,
106 sensory, cognitive, or behavioral deficits.

107 (4) Clients whose medical and diagnosis does not
108 positively identify a cause of the client's condition, or whose
109 symptoms are inconsistent with the known cause of injury, or
110 whose recovery is inconsistent with the known medical condition
111 may be admitted for an evaluation for a period not to exceed
112 ninety (90) days.

113 (5) A client admitted to a transitional living facility
114 must be admitted upon prescription by a licensed physician and
115 must remain under the care of a licensed physician for the
116 duration of the client's stay in the facility.

117 (6) A transitional living facility may not admit a client
118 whose primary admitting diagnosis is mental illness.

119 (7) A person may not be admitted to a transitional living
120 facility if the person:

121 (a) Presents significant risk of infection to other
122 client or personnel. A health care practitioner must provide
123 documentation that the person is free of apparent signs and
124 symptoms of communicable disease;

125 (b) Is a danger to self or others as determined by a
126 physician, or mental health practitioner licensed under chapter
127 490 or chapter 491, unless the facility provides adequate
128 staffing and support to ensure patient safety;

129 (c) Is bedridden; or

130 (d) Requires 24-hour nursing supervision.

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131 (7) If the client meets the admission criteria, the
132 medical or nursing director of the facility must complete an
133 initial evaluation of the client's functional skills, behavioral
134 status, cognitive status, educational/vocational potential,
135 medical status, psychosocial status, sensorimotor capacity, and
136 other related skills and abilities within the first seventy-two
137 hours following the client's admission to the facility. An
138 initial comprehensive treatment plan that delineates services to
139 be provided and appropriate sources for such services must be
140 implemented within the first four days of admission.

141 (8) Each transitional living facility shall develop a
142 discharge plan for each client prior to or on admission to the
143 facility. The discharge plan must identify the intended
144 discharge site and possible alternative discharge sites. For
145 each discharge site identified, the discharge plan must identify
146 the skills, behaviors, and other conditions that the client must
147 achieve to be appropriate for discharge. Discharge plans must
148 be reviewed and updated as necessary, but not less than once
149 monthly.

150 (9) As soon as practicable, a transitional living facility
151 shall discharge clients who no longer require any of the
152 specialized services described in s. 400.9971(7); are not making
153 measurable progress in accordance with their comprehensive
154 treatment plan, or if the transitional living facility is no
155 longer the most appropriate, least restrictive treatment option.

156 (10) Each transitional living facility shall provide at
157 least 30 days' notice to clients of transfer or discharge plans,
158 including the location of an acceptable transfer location if the

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159 client is unable to live independently. This requirement does
160 not apply if a client voluntarily terminates residency.

161 (11) A client may not reside in a transitional living
162 facility for a period of more than 2 years. An exception may be
163 made if a referral is made to Disability Rights of Florida at
164 least 21 months after admission and the client or, if
165 appropriate, the client's guardian requests that the client
166 continue to receive treatment at the transitional living
167 facility.

168 Section 6. Section 400.9974, Florida Statutes, is created
169 to read:

170 400.9974 Client treatment plans; client services.-

171 (1) Each transitional living facility shall develop a
172 comprehensive treatment plan for each client as soon as
173 possible, but no later than 30 days following development of the
174 initial comprehensive treatment plan. Comprehensive treatment
175 plans must be reviewed and updated if the client fails to meet
176 projected improvements in the plan or if a significant change in
177 the client's condition occurs. Treatment plans must be reviewed
178 and updated no less than once monthly. Comprehensive treatment
179 plans must be developed by an interdisciplinary team, consisting
180 of the case manager, program director, nurse, and appropriate
181 therapists. The client, and/or if appropriate, the client's
182 representative must be included in developing the comprehensive
183 treatment plan.

184 (2) The comprehensive treatment plan must include:

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185 (a) The physician's orders and the client's diagnosis,
186 medical history, physical examination, and rehabilitative or
187 restorative needs.

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

190 (c) A comprehensive, accurate, reproducible, and
191 standardized assessment of the client's functional capability
192 and the treatments designed to achieve skills, behaviors, and
193 other conditions to return to the community, and shall specify
194 measurable goals.

195 (d) Steps necessary for the client to achieve transition
196 to the community and estimated length of time to achieve the
197 goals.

198 (3) The client, and/or if appropriate, the client's
199 representative, shall consent to the continued treatment at the
200 transitional living facility. If such consent is not given, the
201 transitional living facility shall discharge the client as soon
202 as practicable.

203 (4) Each client must receive the professional program
204 services needed to implement the client's individual program
205 plan.

206 (5) The licensee must employ available qualified
207 professional staff to carry out and monitor the various
208 professional interventions in accordance with the stated goals
209 and objectives of every individual program plan.

210 (6) Each client must receive a continuous treatment
211 program that includes appropriate, consistent implementation of

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212 a program of specialized and general training, treatment, health
213 services, and related services that is directed toward:

214 (a) The acquisition of the behaviors necessary for the
215 client to function with as much self-determination and
216 independence as possible;

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

219 (c) An appropriate plan to address behavioral issues that
220 preclude independent functioning in the community.

221 Section 7. Section 400.9975, Florida Statutes, is created
222 to read:

223 400.9975 Licensee responsibilities.—

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

225 (a) Lives in a safe environment free from abuse, neglect,
226 and exploitation.

227 (b) Is treated with consideration and respect and with
228 due recognition of personal dignity, individuality, and the need
229 for privacy.

230 (c) Retains and uses his or her own clothes and other
231 personal property in his or her immediate living quarters, so as
232 to maintain individuality and personal dignity, except when the
233 licensee can demonstrate that such retention and use would be
234 unsafe, impractical, or an infringement upon the rights of other
235 clients.

236 (d) Has unrestricted private communication, including
237 receiving and sending unopened correspondence, access to a
238 telephone, and visiting with any person of his or her choice.

239 Upon request, the licensee shall make provisions to modify

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240 visiting hours for caregivers and guests. The facility shall
241 restrict communication in accordance with any court order or
242 written instruction of a guardian. Any restriction on a client's
243 communication for therapeutic reasons shall be reviewed no less
244 often than weekly and the restrictions shall be removed as soon
245 as it is no longer clinically indicated. The basis for the
246 restrictions shall be explained to the client and, if
247 applicable, the client's representative. The client shall
248 nonetheless retain the right to call the abuse hotline, the
249 agency, and Disability Rights of Florida at any and all times.

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

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

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

260 (h) Exercises civil and religious liberties, including
261 the right to independent personal decisions. No religious belief
262 or practice, including attendance at religious services, shall
263 be imposed upon any client.

264 (i) Has access to adequate and appropriate health care as
265 appropriate for the client and consistent with established and
266 recognized standards within the community.

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267 (j) Has the ability to present grievances and recommend
268 changes in policies, procedures, and services to the staff of
269 the licensee, governing officials, or any other person without
270 restraint, interference, coercion, discrimination, or reprisal.
271 Each licensee shall establish a grievance procedure to
272 facilitate a client's exercise of this right. This right
273 includes access to Disability Rights of Florida and other
274 advocates and the right to be a member of, be active in, and
275 associate with advocacy or special interest groups.

276 (2) The licensee shall:

277 (a) Promote participation of each client's representative
278 in the process of providing treatment to the client unless the
279 representative's participation is unobtainable or inappropriate.

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

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

288 (d) Promote leave from the facility for visits, trips, or
289 vacations.

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

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294 (3) The administrator of a facility shall ensure that a
295 written notice of licensee responsibilities is posted in a
296 prominent place in each building where clients reside and read
297 or explained to clients who cannot read. This notice shall
298 include the statewide toll-free telephone number for reporting
299 complaints to the agency, must be provided to clients in a
300 manner that is clearly legible, and must include the words: "To
301 report a complaint regarding the services you receive, please
302 call toll-free ...[telephone number]...; the Disability Rights
303 of Florida (telephone number); and the statewide toll-free
304 telephone number for the central abuse hotline must be provided
305 to clients in a manner that is clearly legible and must include
306 the words: "To report abuse, neglect or exploitation, please
307 call toll-free ...[telephone number]..." where complaints may be
308 lodged. The licensee must ensure a client's access to a
309 telephone to call the agency, central abuse hotline, Disability
310 Rights of Florida.

311 (4) No licensee or employee of a facility may serve
312 notice upon a client to leave the premises or take any other
313 retaliatory action against any person solely due to the
314 following:

315 (a) Files an internal or external complaint or grievance
316 regarding the facility.

317 (b) Appears as a witness in any hearing inside or outside
318 the facility.

319 (5) Before or at the time of admission, the client and
320 the client's representative shall be provided with a copy of the
321 licensee's responsibilities as provided in subsection (1).

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322 (6) The licensee must develop and implement policies and
323 procedures governing the release of any client information,
324 including consent necessary from the client or the client's
325 representative.

326 Section 8. Section 400.9976, Florida Statutes, is created
327 to read:

328 400.9976 Medication practices.-

329 (1) An individual medication administration record must
330 be maintained for each client. Each dose of medication,
331 including a self-administered dose, shall be properly recorded
332 in the client's record. Each patient who is self-administering
333 medication shall be given a pill organizer. Medication must be
334 placed in the pill organizer by a nurse. A nurse shall document
335 the date and time medication is placed into each patient's pill
336 organizer. All medications must be administered in compliance
337 with the physician's orders.

338 (2) If the interdisciplinary team determines that self-
339 administration of medications is an appropriate objective, and
340 if the physician does not specify otherwise, a client must be
341 taught to self-administer his or her medication without a staff
342 person. This includes all forms of administration, including
343 orally, via injection, and via suppository. The client's
344 physician must be informed of the interdisciplinary team's
345 decision that self-administration of medications is an objective
346 for the client. A client may not self-administer medication
347 until he or she demonstrates the competency to take the correct
348 medication in the correct dosage at the correct time, knows how

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349 to respond to missed doses, and knows who to contact with
350 questions.

351 (3) Medication administration discrepancies and adverse
352 drug reactions must be recorded and reported immediately to a
353 physician.

354 Section 9. Section 400.9977, Florida Statutes, is
355 created to read:

356 400.9977 Protection from abuse, neglect, mistreatment,
357 and exploitation.—The licensee must develop and implement
358 policies and procedures for the screening and training of
359 employees, the protection of clients, and the prevention,
360 identification, investigation, and reporting of abuse, neglect,
361 and exploitation. This includes the licensee's identification of
362 clients whose personal histories render them at risk for abusing
363 other clients, development of intervention strategies to prevent
364 occurrences, monitoring for changes that would trigger abusive
365 behavior, and reassessment of the interventions on a regular
366 basis. A licensee shall implement procedures to:

367 (1) Screen potential employees for a history of abuse,
368 neglect, or mistreatment of clients. The screening shall include
369 an attempt to obtain information from previous employers and
370 current employers and verification with the appropriate
371 licensing boards and registries.

372 (2) Train employees, through orientation and ongoing
373 sessions, on issues related to abuse prohibition practices,
374 including identification of abuse, neglect, mistreatment, and
375 exploitation, appropriate interventions to deal with aggressive
376 or catastrophic reactions of clients, the process to report

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377 allegations without fear of reprisal, and recognition of signs
378 of frustration and stress that may lead to abuse.

379 (3) Provide clients, families, and staff with information
380 on how and to whom they may report concerns, incidents, and
381 grievances without the fear of retribution and provide feedback
382 regarding the concerns that have been expressed. A licensee must
383 identify, correct, and intervene in situations in which abuse,
384 neglect, mistreatment, or exploitation is likely to occur,
385 including:

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

389 (b) Providing sufficient staff on each shift to meet the
390 needs of the clients, and ensuring that the staff assigned have
391 knowledge of the individual clients' care needs. The licensee
392 shall identify inappropriate behaviors of its staff, such as
393 using derogatory language, rough handling, ignoring clients
394 while giving care, and directing clients who need toileting
395 assistance to urinate or defecate in their beds.

396 (c) Assessing, planning care for, and monitoring clients
397 with needs and behaviors that might lead to conflict or neglect,
398 such as clients with a history of aggressive behaviors, clients
399 who have behaviors such as entering other clients' rooms,
400 clients with self-injurious behaviors, clients with
401 communication disorders, and clients who require heavy nursing
402 care or are totally dependent on staff.

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

406 (5) Investigate different types of incidents, identify
407 the staff member responsible for the initial reporting,
408 investigate alleged violations, and report results to the proper
409 authorities. The licensee must analyze the occurrences to
410 determine what changes are needed, if any, to policies and
411 procedures to prevent further occurrences and to take all
412 necessary corrective actions depending on the results of the
413 investigation.

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

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

420 Section 10. Section 400.9978, Florida Statutes, is
421 created to read:

422 400.9978 Restraints and seclusion; client safety.-

423 (1) The use of physical restraints must be ordered and
424 documented by a physician and must be consistent with policies
425 and procedures adopted by the facility. The client or, if
426 applicable, the client's representative must be informed of the
427 facility's physical restraint policies and procedures at the
428 time of admission.

429 (2) The use of chemical restraints is limited to
430 prescribed dosages of medications as ordered by a physician,

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431 must be consistent with the client's diagnosis and the policies
432 and procedures adopted by the facility. The client or, if
433 applicable, the client's representative, must be informed of the
434 facility's chemical restraint policies and procedures at the
435 time of admission.

436 (3) Based on a physician's assessment, when a patient
437 exhibits symptoms that present an immediate risk of injury or
438 death to self or others, a physician may issue an emergency
439 treatment order to immediately administer rapid response
440 psychotropic medications or other chemical restraints. Each
441 emergency treatment order must be documented and maintained in
442 the patient's record.

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

445 (b) Whenever a client is medicated in accordance with
446 this section, the client's representative or responsible party
447 and the client's physician must be notified as soon as
448 practicable.

449 (4) A client who is prescribed and receiving a medication
450 that can serve as a chemical restraint, but not on an emergency
451 basis, must be evaluated by his or her physician at least
452 monthly to assess:

453 (a) The continued need for the medication.

454 (b) The level of the medication in the client's blood as
455 appropriate.

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

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

460 (6) The licensee may use physical restraints only as an
461 integral part of an individual program plan that is intended to
462 lead to less restrictive means of managing and eliminating the
463 behavior for which the restraint is applied.

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

468 Section 11. Section 400.9979, Florida Statutes, is
469 created to read:

470 400.9979 Background screening; administration and
471 management.-

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

475 (2) The licensee shall maintain personnel records for
476 each staff member that contain, at a minimum, documentation of
477 background screening, if applicable, a job description,
478 documentation of compliance with all training requirements of
479 this part or applicable rule, the employment application,
480 references, a copy of all job performance evaluations, and, for
481 each staff member who performs services for which licensure or
482 certification is required, a copy of all licenses or
483 certification held by the staff member.

484 (3) The licensee must:

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485 (a) Develop and implement infection control policies and
486 procedures and include such policies and procedures in the
487 licensee's policy manual.

488 (b) Maintain liability insurance as defined in s.
489 624.605.

490 (c) Designate one person as an administrator who is
491 responsible and accountable for the overall management of the
492 facility.

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

496 (e) Designate in writing a program director who is
497 responsible for supervising the therapeutic and behavioral
498 staff, determining the levels of supervision, and room placement
499 for each client.

500 (f) Designate in writing a person to be responsible when
501 the program director is absent from the facility for more than
502 24 hours.

503 (g) Obtain approval of the comprehensive emergency
504 management plan, pursuant to s. 400.9981(2)(e), from the local
505 emergency management agency. Pending the approval of the plan,
506 the local emergency management agency shall ensure that the
507 following agencies, at a minimum, are given the opportunity to
508 review the plan: the Department of Health, the Agency for Health
509 Care Administration, and the Division of Emergency Management.
510 Appropriate volunteer organizations must also be given the
511 opportunity to review the plan. The local emergency management

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512 agency shall complete its review within 60 days and either
513 approve the plan or advise the licensee of necessary revisions.

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

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

521 2. A record of all accidents or unusual incidents
522 involving any client or staff member that caused, or had the
523 potential to cause, injury or harm to any person or property
524 within the facility. Such records must contain a clear
525 description of each accident or incident, the names of the
526 persons involved, a description of all medical or other services
527 provided to these persons specifying who provided such services,
528 and the steps taken to prevent recurrence of such accidents or
529 incidents.

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

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

535 Section 12. Section 400.9980, Florida Statutes, is
536 created to read:

537 400.9980 Property and personal affairs of clients.—

538 (1) A client shall be given the option of using his or
539 her own belongings, as space permits; choosing his or her

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540 roommate if practical and not clinically contraindicated; and,
541 whenever possible, unless the client is adjudicated incompetent
542 or incapacitated under state law, managing his or her own
543 affairs.

544 (2) The admission of a client to a facility and his or
545 her presence therein shall not confer on a licensee,
546 administrator, employee, or representative thereof any authority
547 to manage, use, or dispose of any property of the client, nor
548 shall such admission or presence confer on any of such persons
549 any authority or responsibility for the personal affairs of the
550 client except that which may be necessary for the safe
551 management of the facility or for the safety of the client.

552 (3) A licensee, administrator, employee, or
553 representative thereof may:

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

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

562 (c) Act as the power of attorney for a client if the
563 licensee has filed a surety bond with the agency in an amount
564 equal to twice the average monthly income of the client, plus
565 the value of any client's property under the control of the
566 attorney in fact. The bond under paragraph (b) or paragraph (c)
567 shall be executed by the licensee as principal and a licensed

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568 surety company. The bond shall be conditioned upon the faithful
569 compliance of the licensee with the requirements of licensure
570 and shall be payable to the agency for the benefit of any client
571 who suffers a financial loss as a result of the misuse or
572 misappropriation of funds held pursuant to this subsection. Any
573 surety company that cancels or does not renew the bond of any
574 licensee shall notify the agency in writing not less than 30
575 days in advance of such action, giving the reason for the
576 cancellation or nonrenewal. Any licensee, administrator,
577 employee, or representative thereof who is granted power of
578 attorney for any client of the facility shall, on a monthly
579 basis, notify the client in writing of any transaction made on
580 behalf of the client pursuant to this subsection, and a copy of
581 such notification given to the client shall be retained in each
582 client's file and available for agency inspection.

583 (4) A licensee, upon mutual consent with the client,
584 shall provide for the safekeeping in the facility of the
585 client's personal effects of a value not in excess of \$1,000 and
586 the client's funds not in excess of \$500 cash and shall keep
587 complete and accurate records of all such funds and personal
588 effects received. If a client is absent from a facility for 24
589 hours or more, the licensee may provide for the safekeeping of
590 the client's personal effects of a value in excess of \$1,000.

591 (5) Any funds or other property belonging to or due to a
592 client or expendable for his or her account that is received by
593 licensee shall be trust funds and shall be kept separate from
594 the funds and property of the licensee and other clients or
595 shall be specifically credited to such client. Such trust funds

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596 shall be used or otherwise expended only for the account of the
597 client. At least once every month, unless upon order of a court
598 of competent jurisdiction, the licensee shall furnish the client
599 and the client's representative a complete and verified
600 statement of all funds and other property to which this
601 subsection applies, detailing the amount and items received,
602 together with their sources and disposition. In any event, the
603 licensee shall furnish such statement annually and upon the
604 discharge or transfer of a client. Any governmental agency or
605 private charitable agency contributing funds or other property
606 to the account of a client shall also be entitled to receive
607 such statement monthly and upon the discharge or transfer of the
608 client.

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

611 1. Intentionally withholds a client's personal funds,
612 personal property, or personal needs allowance, or who demands,
613 beneficially receives, or contracts for payment of all or any
614 part of a client's personal property or personal needs allowance
615 in satisfaction of the facility rate for supplies and services;
616 or

617 2. Borrows from or pledges any personal funds of a
618 client, other than the amount agreed to by written contract
619 under s. 429.24, commits a misdemeanor of the first degree,
620 punishable as provided in s. 775.082 or s. 775.083.

621 (b) Any licensee, administrator, employee, or
622 representative thereof who is granted power of attorney for any
623 client of the facility and who misuses or misappropriates funds

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624 obtained through this power commits a felony of the third
625 degree, punishable as provided in s. 775.082, s. 775.083, or s.
626 775.084.

627 (7) In the event of the death of a client, a licensee
628 shall return all refunds, funds, and property held in trust to
629 the client's personal representative, if one has been appointed
630 at the time the licensee disburses such funds, or, if not, to
631 the client's spouse or adult next of kin named in a beneficiary
632 designation form provided by the licensee to the client. If the
633 client has no spouse or adult next of kin or such person cannot
634 be located, funds due the client shall be placed in an interest
635 bearing account and all property held in trust by the licensee
636 shall be safeguarded until such time as the funds and property
637 are disbursed pursuant to the Florida Probate Code. Such funds
638 shall be kept separate from the funds and property of the
639 licensee and other clients of the facility. If the funds of the
640 deceased client are not disbursed pursuant to the Florida
641 Probate Code within 2 years after the client's death, the funds
642 shall be deposited in the Health Care Trust Fund administered by
643 the agency.

644 (8) The agency may by rule clarify terms and specify
645 procedures and documentation necessary to administer the
646 provisions of this section relating to the proper management of
647 clients' funds and personal property and the execution of surety
648 bonds.

649 Section 13. Section 400.9981, Florida Statutes, is
650 created to read:

651 400.9981 Rules establishing standards.—

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652 (1) It is the intent of the Legislature that rules
653 published and enforced pursuant to this part and part II of
654 chapter 408 include criteria to ensure reasonable and consistent
655 quality of care and client safety. Rules should make reasonable
656 efforts to accommodate the needs and preferences of clients to
657 enhance the quality of life in transitional living facilities.

658 (2) The agency, in consultation with the Department of
659 Health, may adopt and enforce rules to implement this part and
660 part II of chapter 408, which shall include reasonable and fair
661 criteria in relation to:

662 (a) The location of transitional living facilities.

663 (b) The number of qualifications of all personnel,
664 including management, medical, nursing, and other professional
665 personnel and nursing assistants and support personnel having
666 responsibility for any part of the care given to clients. The
667 licensee must have enough qualified professional staff available
668 to carry out and monitor the various professional interventions
669 in accordance with the stated goals and objectives of each
670 individual program plan.

671 (c) Requirements for personnel procedures, insurance
672 coverage, reporting procedures, and documentation necessary to
673 implement this part.

674 (d) Services provided to clients of transitional living
675 facilities.

676 (e) The preparation and annual update of a comprehensive
677 emergency management plan in consultation with the Division of
678 Emergency Management. At a minimum, the rules must provide for
679 plan components that address emergency evacuation

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680 transportation; adequate sheltering arrangements; post disaster
681 activities, including provision of emergency power, food, and
682 water; post disaster transportation; supplies; staffing;
683 emergency equipment; individual identification of clients and
684 transfer of records; communication with families; and responses
685 to family inquiries.

686 Section 14. Section 400.9982, Florida Statutes, is
687 created to read:

688 400.9982 Violations; penalties.-

689 (1) Each violation of this part and rules adopted
690 pursuant thereto shall be classified according to the nature of
691 the violation and the gravity of its probable effect on facility
692 clients. The agency shall indicate the classification on the
693 written notice of the violation as follows:

694 (a) Class "I" violations are defined in s. 408.813. The
695 agency shall issue a citation regardless of correction and
696 impose an administrative fine of \$5,000 for an isolated
697 violation, \$7,500 for a patterned violation, and \$10,000 for a
698 widespread violation. Violations may be identified and a fine
699 must be levied notwithstanding the correction of the deficiency
700 giving rise to the violation.

701 (b) Class "II" violations are defined in s. 408.813. The
702 agency shall impose an administrative fine of \$1,000 for an
703 isolated violation, \$2,500 for a patterned violation, and \$5,000
704 for a widespread violation. A fine must be levied
705 notwithstanding the correction of the deficiency giving rise to
706 the violation.

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

713 (d) Class "IV" violations are defined in s. 408.813. The
714 agency shall impose an administrative fine for a cited class IV
715 violation in an amount not less than \$100 and not exceeding \$200
716 for each violation.

717 Section 15. Section 400.9983, Florida Statutes, is
718 created to read:

719 400.9983 Receivership proceedings.—The agency may access
720 the provisions of s. 429.22 regarding receivership proceedings
721 for transitional living facilities.

722 Section 16. Section 400.9984, Florida Statutes, is
723 created to read:

724 400.9984 Interagency communication.—The agency, the
725 department, the Agency for Persons with Disabilities, and the
726 Department of Children and Families shall develop electronic
727 systems to ensure that relevant information pertaining to the
728 regulation of transitional living facilities and clients is
729 timely and effectively communicated among agencies in order to
730 facilitate the protection of clients. Electronic sharing of
731 information shall include, at a minimum, a brain and spinal cord
732 injury registry and a client abuse registry.

733 Section 17. Section 400.805, Florida Statutes, is
734 repealed.

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735 Section 18. Paragraph (b) of subsection (4) of section
736 381.78, Florida Statutes, is amended to read:

737 381.78 Advisory council on brain and spinal cord injuries.—

738 (4) The council shall:

739 (b) Annually appoint a five-member committee composed of
740 one individual who has a brain injury or has a family member
741 with a brain injury, one individual who has a spinal cord injury
742 or has a family member with a spinal cord injury, and three
743 members who shall be chosen from among these representative
744 groups: physicians, other allied health professionals,
745 administrators of brain and spinal cord injury programs, and
746 representatives from support groups with expertise in areas
747 related to the rehabilitation of individuals who have brain or
748 spinal cord injuries, except that one and only one member of the
749 committee shall be an administrator of a transitional living
750 facility. Membership on the council is not a prerequisite for
751 membership on this committee.

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

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

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763 3. Onsite investigations by the committee shall be funded
764 by the Health Care Trust Fund.

765 4. Travel expenses for committee members shall be
766 reimbursed in accordance with s. 112.061.

767 5. Members of the committee shall recuse themselves from
768 participating in any investigation that would create a conflict
769 of interest under state law, and the council shall replace the
770 member, either temporarily or permanently.

771 Section 19. This act shall take effect July 1, 2013.

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

776

Remove everything before the enacting clause and insert:

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An act relating to transitional living facilities; creating part

778

XI of ch. 400, F.S., entitled "Transitional Living Facilities";

779

creating s. 400.9970, F.S.; providing legislative intent;

780

creating s. 400.9971, F.S.; providing definitions; creating s.

781

400.9972, F.S.; requiring the licensure of transitional living

782

facilities; providing fees; providing license application

783

requirements; creating s. 400.9973, F.S.; providing requirements

784

for transitional living facilities relating to client admission,

785

transfer, and discharge; creating s.400.9974, F.S.; requiring an

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individual treatment plan to be developed for each client;

787

providing plan requirements; creating s. 400.9975, F.S.;

788

providing licensee responsibilities; providing notice

789

requirements; prohibiting a licensee or employee of a facility

790

from serving notice upon a client to leave the premises or take

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1109 (2013)

Amendment No.

791 other retaliatory action; requiring the client and client's
792 representative to be provided with certain information;
793 requiring the licensee to develop and implement certain policies
794 and procedures; creating s. 400.9976, F.S.; providing licensee
795 requirements relating to medication practices; creating s.
796 400.9977, F.S.; providing requirements for the screening of
797 potential employees and monitoring of employees for the
798 protection of clients; requiring licensees to implement certain
799 procedures; creating s. 400.9978, F.S.; providing requirements
800 for the use of physical restraints and chemical restraint
801 medication on clients; creating s.400.9979, F.S.; providing
802 background screening requirements; requiring the licensee to
803 maintain certain personnel records; providing administrative
804 responsibilities for licensees; providing recordkeeping
805 requirements; creating s. 400.9980, F.S.; providing requirements
806 relating to property and personal affairs of clients; providing
807 requirements for a licensee with respect to obtaining surety
808 bonds; providing recordkeeping requirements relating to the
809 safekeeping of personal effects; providing requirements for
810 trust funds received by a licensee and credited to the client;
811 providing a penalty for certain misuse of a resident's personal
812 needs allowance; providing criminal penalties for violations;
813 providing for the disposition of property in the event of the
814 death of a client; authorizing the Agency for Health Care
815 Administration to adopt rules; creating s. 400.9981, F.S.;
816 requiring the agency, in consultation with the Department of
817 Health, to adopt and enforce certain rules; creating s.
818 400.9982, F.S.; providing procedures relating to violations and

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1109 (2013)

Amendment No.

819 penalties; providing administrative fines for specified classes
820 of violations; creating s. 400.9983, F.S.; authorizing the
821 agency to access the provisions of s. 429.22, F.S., regarding
822 receivership proceedings; creating s. 400.9984, F.S.; requiring
823 the Agency for Health Care Administration, the Department of
824 Health, the Agency for Persons with Disabilities, and the
825 Department of Children and Families to develop an electronic
826 database for certain purposes; repealing s. 400.805, F.S.,
827 relating to transitional living facilities; amending s. 381.78,
828 F.S.; conforming provisions to changes made by the act;
829 providing an effective date.

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