

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1109 Transitional Living Facilities

SPONSOR(S): Health & Human Services Committee; Health Innovation Subcommittee; Magar

TIED BILLS: **IDEN./SIM. BILLS:** SB 1724

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	13 Y, 0 N, As CS	Guzzo	Shaw
2) Health Care Appropriations Subcommittee	11 Y, 0 N	Clark	Pridgeon
3) Health & Human Services Committee	16 Y, 0 N, As CS	Guzzo	Calamas

SUMMARY ANALYSIS

Transitional Living Facilities (TLFs) provide specialized health care services including, but not limited to, rehabilitative services, community re-entry training, aids for independent living, and counseling to individuals who sustain brain or spinal cord injuries. The bill consolidates the oversight, care and services of clients of TLFs under specific licensure requirements of the Agency for Health Care Administration (AHCA).

The bill promotes coordination between various state agencies involved in the regulation of TLFs by requiring AHCA, the Department of Health, the Agency for Persons with Disabilities, and the Department of Children and Families to develop an electronic database to ensure relevant client data is communicated timely and effectively.

Specifically, the bill makes the following changes:

- Requires TLFs to maintain accreditation by an accrediting organization specializing in evaluating rehabilitation facilities;
- Adds specific admission and discharge requirements and clarifies what constitutes an “appropriate” and an “inappropriate” client for a TLF;
- Adds care and service plan requirements detailing orders for medical care, client functional capability and goals, and transition plans;
- Requires TLFs to provide specific professional services directed toward improving the client’s functional status;
- Enables TLF clients to manage their funds and personal possessions, have visitors;
- Requires TLFs to establish grievance procedures and a system for investigating, tracking, managing, and responding to complaints, which must include an appeals process;
- Provides standards for medication management, use of restraints, seclusion procedures, infection control, safeguards for clients’ funds, and emergency preparedness;
- Adds provisions to protect clients from abuse including, proper staff screening, training, prevention, identification, and investigation;
- Provides AHCA the authority to develop rules for physical plant standards, personnel, and services to clients;
- Creates sanctions for violations and provides authority to place a court-ordered receiver if the licensee fails to take responsibility for the facility and places clients at risk;
- Provides standard licensure criteria, including compliance with local zoning, liability insurance, fire-safety inspection, and sanitation requirements;
- Clarifies that providers already licensed by AHCA, who serve brain and spinal-cord injured persons, are not required to obtain a separate license as a TLF; and
- Revises the Brain and Spinal Cord Injury Advisory Council’s rights to entry and inspection of TLFs.

The bill has an insignificant negative fiscal impact related to development of an electronic system to allow communication between AHCA and other state agencies to ensure information sharing related to the regulation of the transitional living facilities and clients. The additional required costs are minimal and can be absorbed within existing AHCA resources.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Transitional living facilities provide specialized health care services, including, but not limited to, rehabilitative services, community reentry training, aids for independent living, and counseling to spinal-cord-injured persons and head-injured persons.¹ There are currently thirteen transitional living facilities licensed in Florida.² The Agency is the licensing authority and one of the regulatory authorities that oversee transitional living facilities pursuant to chapter 408, part II, chapter 400, part V, F.S., and Rule 59A-17, F.A.C. The current licensure fee is \$4,588.00 with a \$90 per bed fee per biennium.³

AHCA governs the physical plant and fiscal management of these facilities and adopts rules, along with DOH, which monitors services for persons with traumatic brain and spinal cord injuries. Investigations concerning allegations of abuse and neglect of children and vulnerable adults are performed by DCF.

Section 400.805, F.S., mandates requirements for transitional living facilities. Section 400.805(2), F.S., provides the licensure requirements and fees for operation of a transitional living facility as well as level 2 background screening requirements for all TLF personnel. Section 400.805(3)(a) requires AHCA, in consultation with DOH, to adopt rules governing the physical plant and the fiscal management of transitional living facilities.

Compared to other types of facilities regulated by AHCA, the detail and scope of regulations for TLFs is significantly narrower and less restrictive, as the regulations focus more on solvency than resident care.

According to a news report from Bloomberg, dated January 24, 2012, clients at the Florida Institute for Neurologic Rehabilitation in Wauchula, Florida were abused, neglected and confined. The news report was based on information from 20 current and former clients and their family members, criminal charging documents, civil complaints and advocates for the disabled.⁴ In August, 2012, a multi-agency investigation was conducted at the Wauchula facility. As a result of the investigation, it was determined that 50 of the 98 residents reviewed did not have an appropriate diagnosis of spinal-cord injured or head injured.⁵

State agencies involved in the regulation of TLFs strive to maintain a level of coordination sufficient to provide quality care to clients of TLFs. AHCA is responsible for the licensure of TLFs, while DOH monitors services for persons with traumatic brain and spinal cord injuries, and DCF investigates allegations of abuse and neglect of children and vulnerable adults. In working together during the recent investigations, gaps and deficiencies were discovered in the TLF regulatory structure.

The Brain and Spinal Cord Injury Program (BSCIP) is administered through DOH. Services provided by the BSCIP include:

- Case management;
- Acute care, and inpatient and outpatient rehabilitation;

¹ Section 400.805(1)(c), F.S.

² HB 1109 Bill Analysis, Economic Impact Statement, Agency for Health Care Administration, at page 1, March 15, 2013 (on file with the Health Innovation subcommittee).

³ *Id.*; See also sections 400.805(2)(b), and 408.805(2), F.S. (the fees contained in ch. 400, F.S., do not reflect the current fees, pursuant to s. 408.805(2), F.S., fees may be adjusted annually not more than the change in consumer price index based on the 12 months immediately preceding the increase).

⁴ Bloomberg, *Abuse of Brain Injured Americans Scandalizes U.S.*, (Jan. 7, 2012) available at <http://www.bloomberg.com/news/2012-07-24/brain-injured-abuse-at-for-profit-center-scandalizes-u-s-.html>.

⁵ Agency for Health Care Administration, Statement of Deficiencies and Plan of Correction (*August 3, 2012*), available at [http://www.upps.ahca.myflorida.com/dm_web/\(s\(ner1fpywcczpxoyuqpyogfn\)\)/doc_results.aspx?file_number=35930769&provider_type=TRANSITIONAL+LIVING+FACILITY++&client_code=34&provider_name=FLORIDA+INSTITUTE+FOR+NEUROLOGIC+REHAB%2c+INC&lic_id=28343](http://www.upps.ahca.myflorida.com/dm_web/(s(ner1fpywcczpxoyuqpyogfn))/doc_results.aspx?file_number=35930769&provider_type=TRANSITIONAL+LIVING+FACILITY++&client_code=34&provider_name=FLORIDA+INSTITUTE+FOR+NEUROLOGIC+REHAB%2c+INC&lic_id=28343) (last viewed March 17, 2013).

- Transitional living;
- Assistive technology;
- Home and vehicle modifications;
- Nursing home transition facilitation; and
- Long-term support for survivors and families through contractual agreements with community based agencies.

Section 381.76, F.S., provides that a participant in the BSCIP must be a legal Florida resident who has sustained a brain or spinal cord injury. For purposes of the BSCIP, a brain or spinal cord injury means “a lesion to the spinal cord or cauda equina, resulting from external trauma.”⁶ However, s. 400.805 (1), F.S., relating to TLFs, provides that residents of a TLF must be “spinal-cord-injured persons or head-injured persons.” These inconsistent definitions have led to uncertainty as to whether or not TLFs can provide services to individuals who are not participants in the BSCIP or to individuals who have a brain or spinal cord injury that was not the result of external trauma.

The Brain and Spinal Cord Injury Advisory Council has rights to entry and inspection of transitional living facilities granted under section 400.805(4), F.S.

Effect of Proposed Changes

The bill consolidates the oversight of care and services of clients of TLFs under specific licensure requirements of AHCA and promotes coordination between AHCA, DOH, APD, DCF, and the Brain and Spinal Cord Injury Program.

This bill repeals the current TLF regulations in s. 400.805, F.S. and creates Part XI of chapter 400, to include ss. 400.9970-400.9984, F.S.

This bill creates s. 400.9970, F.S., and states the intent of the legislation is to provide for the development, establishment and enforcement of basic standards for TLFs to ensure quality of care and services to residents. Further, the bill provides that it is the policy of this state that the use of restraint and seclusion of TLF clients is justified only as an emergency safety measure to be used in response to danger to the client or others. Therefore, it is the intent of the legislature to achieve an ongoing reduction in the use of restraint and seclusion in programs and facilities serving individuals with brain or spinal-cord injuries.

Section 400.9971 is created to define terms relating to TLFs, and adds new terminology to include seclusion, and chemical and physical restraints and their use. The bill adds “behavior modification” services to the list of specialized health care services contained in the definition of a TLF. The bill clarifies that providers already licensed by AHCA, serving brain and spinal-cord injured persons under their existing license, are not required to obtain a separate license as a TLF.

Section 400.9972, F.S., is created to provide licensure requirements for TLFs, including compliance with local zoning, liability insurance, fire-safety inspection, and sanitation requirements. This section also provides the application fees for TLFs and adds language to clarify that the fees must be adjusted to conform with the annual cost of living adjustment, pursuant to s. 408.805(2), F.S. In addition, the bill requires TLFs to maintain accreditation by an accrediting organization specializing in evaluating rehabilitation facilities whose standards incorporate comparable licensure regulations required by the state. Applicants for licensure as a TLF must acquire accreditation within 12 months of the issuance of an initial license. The bill authorizes AHCA to accept an accreditation survey report by the accrediting organization in lieu of conducting a licensure inspection. Further, the bill authorizes AHCA to conduct inspections to assure compliance with licensure requirements, validate the inspection process of accrediting organizations, and to respond to licensure complaints or to protect public health and safety.

Admission, Transfer and Discharge Requirements

⁶ S. 381.745 (2), F.S.

The bill creates s. 400.9973, F.S., to establish requirements that TLFs must have in place for client admission, transfer and discharge from the facility. The facility is required to have admission, transfer and discharge policies and procedures in writing. The client's admission to the facility must be in line with facility policies and procedures.

Each resident admitted to the facility is required to be admitted upon prescription by a licensed physician and must remain under the care of the physician for the duration of the client's stay in the facility. Clients admitted to the facility must have a brain and spinal cord injury, such as a lesion to the spinal cord or cauda equine syndrome, with evidence of significant involvement of two of the following deficits or dysfunctions:

- Motor deficit.
- Sensory deficit.
- Bowel and bladder dysfunction.
- An injury to the skull, brain, or its covering that produces an altered state of consciousness or anatomic motor, sensory, cognitive, or behavioral deficits.

This definition of a brain or spinal cord injury, as it relates to admission requirements of TLFs, differs from the definition of a brain or spinal cord injury for purposes of the BSCIP, in that it does not require the injury to be the result of external trauma.

In cases where a client's medical diagnosis does not positively identify a cause of the client's condition, or whose symptoms are inconsistent with the known cause of injury, or whose recovery is inconsistent with the known medical condition, the bill allows for an individual to be admitted for an evaluation period not to exceed ninety-days.

The bill prohibits TLFs from admitting a client whose primary diagnosis is mental illness or an intellectual or developmental disability. In addition, the bill provides that a person may not be admitted to a TLF if the person:

- Presents a significant risk of infection to other clients or personnel;
 - In addition the bill requires a health care practitioner to provide documentation that the person is free of apparent signs and symptoms of communicable disease.
- Is a danger to self or others as determined by a physician, or mental health practitioner, unless the facility provides adequate staffing and support to ensure patient safety;
- Is bedridden; or
- Requires 24-hour nursing supervision.

Upon a client meeting the admission criteria, the medical or nursing director must complete an initial evaluation of the client's functional skills, behavioral status, cognitive status, educational/vocational potential, medical status, psychosocial status, sensorimotor capacity, and other related skills and abilities within the first seventy-two hours of admission. Further, the bill requires the facility to implement an initial comprehensive treatment plan that delineates services to be provided within the first four days of admission.

The bill requires TLFs to develop a discharge plan for each client prior to or upon admission to the facility. The discharge plan is required to identify intended discharge sites and possible alternate discharge sites. For each discharge site identified, the discharge plan must identify the skills, behaviors, and other conditions that the client must achieve to be appropriate for discharge. The bill requires discharge plans to be reviewed and updated not less than once per month.

The bill allows for the discharge of clients, as soon as practicable, if the TLF is no longer the most appropriate, least restrictive treatment option, and for clients who:

- No longer require any of the specialized services described in s. 400.9971(7), F.S.; or
- Are not making measurable progress in accordance with their comprehensive treatment plan.

The bill requires TLFs to provide at least a thirty-days' notice to clients of transfer or discharge plans, which must include an acceptable transfer location if the client is unable to live independently, unless the client voluntarily terminates residency.

Client Treatment Plans and Client Services

The bill creates s. 400.9974, F.S., to require each client in the facility to have a comprehensive treatment plan which is developed by an interdisciplinary team, consisting of the case manager, program director, nurse, appropriate therapists, and the client and/or the client's representative. The comprehensive treatment plan must be completed no later than 30 days after development of the initial comprehensive treatment plan. Treatment plans must be reviewed and updated at least once a month. If a significant change in the client's condition occurs, reevaluation must occur. The facility must have qualified staff to carry out and monitor interventions in accordance with the stated goals of the individual's program plan.

Each comprehensive treatment plan must include the following:

- Physician's orders, diagnosis, medical history, physical exams and rehab needs;
- A preliminary nursing evaluation with physician orders for immediate care to be completed upon admission;
- A standardized assessment of the client's functional capability; and
- A plan to achieve transition to the community and the estimated length of time to achieve transition goals.

The bill requires licensees to employ available qualified professional staff to carry out the various professional interventions in accordance with the goals and objectives of the individual program plan. Each client must receive a continuous treatment program that includes appropriate, consistent implementation of a program of specialized and general training, treatment, and services.

Provider Responsibilities

The bill creates s. 400.9975, F.S., to require TLF licensees to ensure that every client:

- Lives in a safe environment;
- Is treated with respect, recognition of personal dignity and privacy;
- Retains use of their own clothes and personal property;
- Has unrestricted private communications which includes mail, telephone and visitors,
- Participates in community services and activities;
- Manages their financial affairs unless the client or the client's representative authorizes the administrator of the facility to provide safekeeping for funds;
- Has reasonable opportunity for regular exercise and be outdoors several times a week.
- Exercises civil and religious liberties;
- Has adequate access and appropriate health care services;
- Has the ability to present grievances and recommend changes in policies, procedures and services;
- Is enabled to have a representative participate in the process of treatment for the client;
- Receives prompt responses from the facility to communications from family and friends;
- Have visits by individuals with a relationship to the client and any reasonable hour; and
- Has the opportunity to leave the facility to visit, take trips or vacations.

To facilitate a client's ability to present grievances, the facility is required to provide a system for investigating, tracking, managing, and responding to complaints, which must include an appeals process.

Additionally, the client's representative must be promptly notified of any significant incidents or changes in the client's condition.

The administrator is required to ensure a written notice of provider responsibilities is posted in a prominent place in the facility which includes the statewide toll-free telephone number for reporting complaints to the AHCA and the statewide toll-free number of Disability Rights of Florida. The facility must ensure the client has access to a telephone to call the AHCA, central abuse hotline, Disabilities Rights of Florida and the local advocacy council. The facility cannot take retaliatory action against any person for filing a complaint or grievance, or for appearing as a witness in any hearing.

Medication Practices

The bill creates s. 400.9976, F.S., to require TLFs to maintain a medication administration record for each client, and for each dose, including medications that are self-administered. Each patient who is self-administering must be given a pill organizer, and a nurse must place the medications inside the pill organizer and document the date and time the pill organizer is filled. All medications, including those that are self-administered, must be administered as ordered by the physician. Drug administration errors and adverse drug reactions must be recorded and reported immediately to the physician. The interdisciplinary team determines if a client is capable of self-administration of medications.

Client Protection

The bill creates s. 400.9977, F.S., to establish provisions relating to the protection of clients from abuse, neglect, and exploitation. The bill provides that the facility is responsible for developing and implementing policies and procedures for screening and training employees, protection of clients and for the prevention, identification, investigation, and reporting of abuse, neglect, mistreatment, and exploitation. The facility is also required to identify clients whose history renders them at risk for abusing other clients. Further, the bill requires facilities to implement procedures to:

- Screen potential employees for a history of abuse, neglect or mistreatment of client;
- Train employees through orientation and on-going sessions on abuse prohibition practices;
- Implement procedures to provide clients, families and staff information on how and to whom they may report concerns, incidents and grievances without the fear of retribution;
- Implement procedures to identify events such as suspicious bruising of clients that may constitute abuse to determine the direction of the investigation;
- Investigate different types of incidents and identify staff members responsible for the initial reporting and reporting of results to the proper authorities;
- Protect clients from harm during an investigation; and
- Report all alleged violations and all substantiated incidents as required under chapters 39 and 415, F.S., and to the appropriate licensing authorities.

The facility must identify, correct, and intervene in situations in which abuse, neglect, mistreatment or exploitation is likely to occur, including, the physical environment that makes abuse and/or neglect more likely to occur, such as secluded areas.

The facility is required to have a sufficient number of staff to meet the needs of the clients, and must assure that staff has knowledge of the individual client's care needs. The facility must analyze the occurrences of abuse, exploitation, mistreatment or neglect and determine what changes are needed to policies and procedures to prevent further occurrences.

Restraints and Seclusion

The bill creates s. 400.9978, F.S., to require physical and chemical restraints to be, ordered and documented, by the client's physician, with the consent of the client or client's representative. The bill provides that the use of chemical restraints is limited to the prescribed dosage of medications by the client's physician. The use of physical restraint and seclusion may only be used as authorized by the facility's written physical restraint and seclusion policies. Facilities are required to notify the parent or guardian within 24-hours of the use of restraint or seclusion.

The bill authorizes a physician to issue an emergency treatment order to immediately administer rapid response psychotropic medications or other chemical restraints when a client exhibits symptoms that present an immediate risk of injury or death to themselves or others. Each emergency treatment order must be documented and maintained in the client's record and is only effective for 24-hours.

Clients receiving medications that can serve as a restraint must be evaluated by their physician at least monthly to assess the:

- Continued need for the medication;
- Level of the medication in client's blood; and
- Need for adjustments in the prescription.

The facility is required to ensure that clients are free from unnecessary drugs and physical restraints. All interventions to manage inappropriate client behaviors must be administered with sufficient safeguards and supervision.

The bill authorizes AHCA to adopt rules for standards and procedures relating to:

- Use of restraint, restraint positioning, seclusion and emergency orders for psychotropic medications;
- Duration of restraint use;
- Staff training;
- Client observation during restraint; and
- Documentation and reporting standards.

Background Screening and Administration/Management

The bill creates s. 400.9979, F.S., to require all facility personnel to complete a level 2 background screening as required in s. 408.809(1)(e), F.S. pursuant to Chapter 435. The facility must maintain personnel records which contain the staff's background screening, job description, documentation of compliance with training requirements, and a copy of all licenses or certifications held by staff who perform services for which licensure or certification is required. The record must also include a copy of all job performance evaluations.

The bill requires the facility to:

- Implement infection control policies and procedures.
- Maintain liability insurance as defined by section 624.605, F.S., at all times.
- Designate one person as administrator who is responsible for the overall management of the facility.
- Designate in writing a person responsible for the facility when the administrator is absent for 24 hours.
- Designate in writing a program director who is responsible for supervising the therapeutic and behavioral staff, determining the levels of supervision, and room placement for each client.
- Designate in writing a person to be responsible when the program director is absent from the facility for more than 24 hours.
- Obtain approval of the comprehensive emergency management plan from their local emergency management agency.
- Maintain written records in a form and system in accordance with medical and business practices and be available for submission to AHCA upon request. The records must include:
 - A daily census record;
 - A report of all accident or unusual incidents involving clients or staff members that caused or had the potential to cause injury or harm to any person or property within the facility;
 - Agreements with third party providers; and

- Agreements with consultants employed by the facility and documentation of each consultant's visits and required written, dated reports.

Property and Personal Affairs of Clients

The bill creates s. 400.9980, F.S., to require facilities to give clients options of using their own personal belongings, and to choose their own roommate whenever possible. The bill provides that the admission of a client to a facility, and their presence therein, shall not confer on a licensee, administrator, employee, or representative any authority to manage, use, or dispose of any property of the client. The licensee, administrator employee or representative may not act as the client's guardian, trustee, payee for social security or other benefits. The licensee, administrator, employee or representative may act as the power of attorney for a client if the licensee has filed a surety bond with AHCA in an amount equal to twice the average monthly income of the client. When the power of attorney is granted to the licensee, administrator, staff, or representative, they must notify the client on a monthly basis of any transactions made on their behalf and a copy of such statement given to the client must be retained in the client's file and be available for inspection.

The bill requires the facility to, upon consent from the client, provide for the safekeeping of personal effects. The personal effects may not be in excess of \$1,000 and funds of the client may not be in excess of \$500 in cash, and the facility must keep complete and accurate records of all funds and personal effects received.

The bill provides that for any funds or other property belonging to or due to a client, such funds shall be trust funds which shall be kept separate from the funds and property of the licensee or shall be specifically credited to the client. At least once every month, unless upon order of a court of competent jurisdiction, the facility must furnish the client and the client's representative a complete and verified statement of all funds and other property, detailing the amount and items received, together with their sources and disposition.

The bill provides that any licensee, administrator, or staff, or representative thereof, who is granted power of attorney for any client of the facility and who misuses or misappropriates funds obtained through this power commits a felony of the third degree.

In the event of the death of a client, the facility must return all refunds, funds, and property held in trust to the client's personal representative. If the client has no spouse or adult next of kin or such person cannot be located, funds due the client must be placed in an interest-bearing account, and all property held in trust by the licensee shall be safeguarded until such time as the funds and property are disbursed pursuant to the Florida Probate Code.

The bill authorizes AHCA to adopt rules to clarify terms and specify procedures and documentation necessary to administer the provisions relating to the proper management of clients' funds and personal property and the execution of surety bonds.

Rules Establishing Standards

The bill creates s. 400.9981, F.S., to authorize AHCA to publish and enforce rules, which include criteria to ensure reasonable and consistent quality of care and client safety. Further, the bill authorizes AHCA to adopt and enforce rules which must include reasonable and fair criteria in relation to the:

- Location of TLFs;
- Qualifications of all personnel having responsibility for any part of the client's care and services;
- Requirements for personnel procedures and reporting procedures;
- Services provided to clients; and the
- Preparation and annual update of a comprehensive emergency management plan.

Penalties and Violations

The bill creates s. 400.9982, F.S., to authorize AHCA to adopt rules to enforce penalties, and require AHCA to classify each violation according to the nature of the violation and the gravity of its probable effect on the client. The classification of violations, as defined in s. 408.813, F.S., must be included on the written notice of the violation in the following categories:

- Class “I” violations will result in issuance of a citation regardless of correction and impose an administrative fine up to \$10,000 for a widespread violation.
- Class “II” violations will result in an administrative fine up to \$5,000 for a widespread violation.
- Class “III” violations will result in an administrative fine up to \$1,000 for an uncorrected deficiency of a widespread violation.
- Class “IV” violations will result in an administrative fine not less than \$100 and not exceeding \$200 for an uncorrected deficiency.

The bill allows TLFs to avoid imposition of a fine for a class IV violation, if the deficiency is corrected within a specified period of time.

Receivership Proceedings

The bill creates s. 400.9983, F.S., to authorize AHCA access the provisions of s. 429.22, F.S., regarding receivership proceedings for TLFs. As a result, AHCA is authorized to petition a court for the appointment of a receiver when any of the following conditions exist:

- The facility is closing or has informed the Agency that it intends to close;
- The Agency determines the conditions exist in the facility that presents danger to the health, safety or welfare of the clients of the facility; or
- The facility cannot meet its financial obligation for providing food, shelter, care and utilities.

Petitions for receivership take priority over other court business. A hearing must be conducted within five days of the petition filing. AHCA must notify the owner or administrator of the facility named in the petition and the date of the hearing. The court may grant the petition only upon a finding that the health, safety or welfare of the client is threatened if a condition existing at the time the petition was filed is allowed to continue.

A receiver may be appointed from a list of qualified persons developed by AHCA. The receiver must make provisions for the continued health, safety and welfare of all clients and perform all duties set out by the court. The receiver must operate the facility to assure the safety and adequate health care for the clients. The receiver may use all resources and consumable goods in the provision of care services to the client and correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety of clients and staff. The receiver may hire or contract staff to carry out the duties of the receiver. The receiver must also honor all leases and mortgages, and has the power to direct and manage, and to discharge employees of the facility.

Interagency Communication

The bill creates s. 400.9984, F.S., to require AHCA, DOH, APD, and DCF to develop electronic systems to ensure relevant data pertaining to the regulation of TLFs is communicated timely among the agencies for the protection of clients. The bill requires the system to include a brain and spinal cord injury registry and a client abuse registry.

B. SECTION DIRECTORY:

Section 1: Creates ss. 400.9970 through 400.9984, F.S., as part XI of chapter 400, to be entitled “Transitional Living Facilities.

Section 2: Amends s. 381.745, F.S., relating to definitions.

Section 3: Amends s. 381.75, F.S., relating to duties and responsibilities of the department.

Section 4: Amends s. 381.78, F.S., relating to the advisory council on brain and spinal cord injuries.

Section 5: Amends s. 408.802, F.S., relating to applicability.

Section 6: Amends s. 408.820, F.S., relating to exemptions.

Section 7: Amends s. 400.93, F.S., relating to licensure required; exemptions; unlawful acts; and penalties.

Section 8: Repeals s. 400.805, F.S., relating to transitional living facilities.

Section 9: Requires all transitional living facilities licensed under s. 400.805, F.S., on or before July 1, 2013, to be licensed under this act.

Section 10: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The development of an electronic system will have a minimal fiscal impact and any costs associated with implementation of this legislation can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires the development of an electronic system to allow communication between AHCA and other state agencies to ensure information sharing related to the regulation of the transitional living facilities and clients. Minimal resources are needed for the data sharing and can be absorbed within existing budget.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2013, the Health Innovation Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Provides flexibility in the length of time a client may stay in a TLF to include up to a 90 day evaluation period and limits the amount of time they can stay to 2 years.
- Prohibits TLFs from admitting clients whose primary diagnosis is mental illness.
- Requires an initial evaluation to be completed within 72 hours of a client's admission.
- Requires TLFs to develop a discharge plan for each client, which must be updated monthly.
- Requires TLFs to provide at least 30 days' notice to clients before discharge or transfer.
- Requires TLFs to develop comprehensive treatment plans for all clients, which must be reviewed and updated monthly.
- Requires clients who self-administer medication to be provided a pill organizer to be filled by a nurse.
- Authorizing a physician to issue an emergency treatment order to immediately administer rapid response psychotropic medications or other chemical restraints when a patient exhibits symptoms that present an immediate risk of injury or death to self or others.
- Requires licensees to designate in writing a program director whom is responsible for supervising the therapeutic and behavioral staff, determining levels of supervision, and room placement for each client.
- Referencing existing statutory authority for the provision of emergency placement of a receiver.

This analysis is drafted to the committee substitute as passed by the Health Innovation Subcommittee.

On April 4, 2013, the Health and Human Services Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Revises the definition of a TLF and adds the definition of "seclusion";
- Clarifies providers already licensed by AHCA, serving brain and spinal cord injured persons under their existing license, are not required to obtain a separate license as a TLF, such as hospitals and skilled nursing rehab programs;
- Requires accreditation as a condition of licensure;
- Enables clients to continue to receive services from a TLF as long as they are making measurable progress toward transitioning to the community;
- Refines admission criteria and protects against the inappropriate admission of individuals in TLFs with intellectual or development disabilities;
- Requires TLFs to establish a system for responding to complaints;
- Provides for development and implementation of written restraint or seclusion policies;
- Requires notification when restraint or seclusion is utilized and clarifies rule authority;
- Allows TLFs to correct deficiencies resulting in class IV violations, within a specified amount of time by AHCA, to avoid imposition of a fine; and
- Amends Chapter 381, Florida Statutes to clarify the respective roles of DOH and AHCA.

This analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.