

1 A bill to be entitled
2 An act relating to transitional living facilities;
3 creating part XI of ch. 400, F.S., entitled
4 "Transitional Living Facilities"; creating s.
5 400.9970, F.S.; providing legislative intent; creating
6 s. 400.9971, F.S.; providing definitions; creating s.
7 400.9972, F.S.; requiring the licensure of
8 transitional living facilities; providing fees;
9 providing license application requirements; creating
10 s. 400.9973, F.S.; providing requirements for
11 transitional living facilities relating to client
12 admission, transfer, and discharge; creating s.
13 400.9974, F.S.; requiring an individual program plan
14 to be developed for each client; providing plan
15 requirements; creating s. 400.9975, F.S.; providing
16 licensee responsibilities; providing notice
17 requirements; prohibiting a licensee or employee of a
18 facility from serving notice upon a client to leave
19 the premises or take other retaliatory action;
20 requiring the client and client's representative to be
21 provided with certain information; requiring the
22 licensee to develop and implement certain policies and
23 procedures; creating s. 400.9976, F.S.; providing
24 licensee requirements relating to medication
25 practices; creating s. 400.9977, F.S.; providing
26 requirements for the screening of potential employees
27 and monitoring of employees for the protection of
28 clients; requiring licensees to implement certain

29 | procedures; creating s. 400.9978, F.S.; providing
30 | requirements for the use of physical restraints and
31 | chemical restraint medication on clients; creating s.
32 | 400.9979, F.S.; providing background screening
33 | requirements; requiring the licensee to maintain
34 | certain personnel records; providing administrative
35 | responsibilities for licensees; providing
36 | recordkeeping requirements; creating s. 400.9980,
37 | F.S.; providing requirements relating to property and
38 | personal affairs of clients; providing requirements
39 | for a licensee with respect to obtaining surety bonds;
40 | providing recordkeeping requirements relating to the
41 | safekeeping of personal effects; providing
42 | requirements for trust funds received by licensee and
43 | credited to the client; providing a penalty for
44 | certain misuse of a resident's personal needs
45 | allowance; providing criminal penalties for
46 | violations; providing for the disposition of property
47 | in the event of the death of a client; authorizing the
48 | Agency for Health Care Administration to adopt rules;
49 | creating s. 400.9981, F.S.; requiring the agency, in
50 | consultation with the Department of Health, to adopt
51 | and enforce certain rules; creating s. 400.9982, F.S.;
52 | providing procedures relating to violations and
53 | penalties; providing administrative fines for
54 | specified classes of violations; creating s. 400.9983,
55 | F.S.; authorizing the agency to institute receivership
56 | proceedings under certain conditions; providing

57 requirements for proceedings; creating s. 400.9984,
 58 F.S.; requiring the Agency for Health Care
 59 Administration, the Department of Health, the Agency
 60 for Persons with Disabilities, and the Department of
 61 Children and Families to develop an electronic
 62 database for certain purposes; repealing s. 400.805,
 63 F.S., relating to transitional living facilities;
 64 amending s. 381.78, F.S.; conforming provisions to
 65 changes made by the act; providing an effective date.
 66

67 Be It Enacted by the Legislature of the State of Florida:
 68

69 Section 1. Sections 400.9970 through 400.9984, Florida
 70 Statutes, are designated as part XI of chapter 400, Florida
 71 Statutes, entitled "Transitional Living Facilities."

72 Section 2. Section 400.9970, Florida Statutes, is created
 73 to read:

74 400.9970 Legislative intent.—It is the intent of the
 75 Legislature to provide for the licensure of transitional living
 76 facilities and require the development, establishment, and
 77 enforcement of basic standards by the department to ensure
 78 quality of care and services to clients in transitional living
 79 facilities.

80 Section 3. Section 400.9971, Florida Statutes, is created
 81 to read:

82 400.9971 Definitions.—As used in this part, the term:
 83 (1) "Agency" means the Agency for Health Care
 84 Administration.

85 (2) "Chemical restraint" means a pharmacologic drug that
 86 physically limits, restricts, or deprives an individual of
 87 movement or mobility and is used for discipline or convenience
 88 and not required for the treatment of medical symptoms.

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

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

93 (5) "Licensee" means an individual issued a license by the
 94 agency.

95 (6) "Physical restraint" means a device that physically
 96 limits, restricts, or deprives an individual of movement or
 97 mobility, including, but not limited to, a half-bed rail, a
 98 full-bed rail, a geriatric chair, and a posey restraint. The
 99 term includes any device that was not specifically manufactured
 100 as a restraint but that has been altered, arranged, or otherwise
 101 used for this purpose. The term does not include bandage
 102 material used for the purpose of binding a wound or injury.

103 (7) "Transitional living facility" means a site where
 104 specialized health care services are provided, including, but
 105 not limited to, rehabilitative services, community reentry
 106 training, aids for independent living, and counseling to brain-
 107 injured persons and spinal-cord-injured persons. The term does
 108 not include a hospital licensed under chapter 395 or any
 109 federally operated hospital or facility.

110 Section 4. Section 400.9972, Florida Statutes, is created
 111 to read:

112 400.9972 License required; fee; application.—

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113 (1) The requirements of part II of chapter 408 apply to
114 the provision of services that require licensure pursuant to
115 this part and part II of chapter 408 and to entities licensed by
116 or applying for such licensure from the agency pursuant to this
117 part. A license issued by the agency is required for the
118 operation of a transitional living facility in this state.

119 (2) In accordance with this part, an applicant or a
120 licensee shall pay a fee for each license application submitted
121 under this part. The license fee shall consist of a \$4,000
122 license fee and a \$78.50 per-bed fee per biennium and shall
123 conform with the annual adjustment authorized in s. 408.805.

124 (3) Each applicant for licensure must provide:

125 (a) The location of the facility for which a license is
126 sought and documentation, signed by the appropriate local
127 government official, that states that the applicant has met
128 local zoning requirements.

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

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

133 (d) Proof that the facility has received a satisfactory
134 firesafety inspection.

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

137 Section 5. Section 400.9973, Florida Statutes, is created
138 to read:

139 400.9973 Client admission, transfer, and discharge.—

140 (1) Each transitional living facility must have written

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141 policies and procedures governing the admission, transfer, and
142 discharge of clients.

143 (2) The admission of each client to a transitional living
144 facility must be under the supervision of the facility
145 administrator or designee and must be in accordance with the
146 licensee's policies and procedures.

147 (3) A client admitted to a transitional living facility
148 must:

149 (a) Have a brain or spinal cord injury as defined in s.
150 381.745(2).

151 (b) Be admitted upon prescription by a licensed physician
152 and must remain under the care of the licensed physician for the
153 duration of the client's stay in the facility.

154 (c) Not present a significant risk of infection to other
155 client or personnel. A health care practitioner must provide
156 documentation that the person is free of apparent signs and
157 symptoms of communicable disease.

158 (d) Not present a danger to self or others as determined
159 by a physician or mental health practitioner licensed under
160 chapter 490 or chapter 491.

161 (e) Not require 24-hour licensed professional mental
162 health treatment.

163 (f) Not be bedridden.

164 (g) Not require 24-hour nursing supervision.

165 (4) If a client meets the admission criteria in subsection
166 (3), the medical or nursing director of the facility must
167 implement a preadmission plan that delineates services to be
168 provided and appropriate sources for such services.

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169 (5) The licensee must provide adequate notice to clients
170 of transfer or discharge plans, including the location of an
171 acceptable transfer location if the client is unable to live
172 independently. This subsection does not apply if a client
173 voluntarily terminates residency.

174 Section 6. Section 400.9974, Florida Statutes, is created
175 to read:

176 400.9974 Individual program plans; client services.-

177 (1) An interdisciplinary team consisting of persons who
178 possess the knowledge, skills, and expertise necessary to
179 accurately identify the comprehensive array of the individual's
180 needs and design appropriate services and specialized programs
181 responsive to those needs, in collaboration with the client and
182 the client's representative, must develop an individual program
183 plan for each client.

184 (2) The individual program plan must include:

185 (a) The client's physician's orders, diagnosis, medical
186 history, physical examination, and rehabilitative or restorative
187 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 (d) Steps necessary for the client to achieve transition
193 to the community within 90 days after admission.

194 (3) The individual program plan must be completed before
195 admission to the facility and be reevaluated at least every 30
196 days after admission. A reevaluation of the plan must occur if

197 | the client fails to meet projected improvements in the plan or a
 198 | significant change in the client's condition occurs.

199 | (4) Each client must receive the professional program
 200 | services needed to implement the client's individual program
 201 | plan.

202 | (5) The licensee must employ available qualified
 203 | professional staff to carry out and monitor the various
 204 | professional interventions in accordance with the stated goals
 205 | and objectives of every individual program plan.

206 | (6) Each client must receive a continuous treatment
 207 | program that includes aggressive, consistent implementation of a
 208 | program of specialized and general training, treatment, health
 209 | services, and related services that is directed toward:

210 | (a) The acquisition of the behaviors necessary for the
 211 | client to function with as much self-determination and
 212 | independence as possible; and

213 | (b) The prevention or deceleration of regression or loss
 214 | of current optimal functional status.

215 | Section 7. Section 400.9975, Florida Statutes, is created
 216 | to read:

217 | 400.9975 Licensee responsibilities.-

218 | (1) The licensee shall:

219 | (a) Ensure that each client:

220 | 1. Lives in a safe environment free from abuse, neglect,
 221 | and exploitation.

222 | 2. Is treated with consideration and respect and with due
 223 | recognition of personal dignity, individuality, and the need for
 224 | privacy.

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225 3. Retains and uses his or her own clothes and other
226 personal property in his or her immediate living quarters, so as
227 to maintain individuality and personal dignity, except when the
228 licensee can demonstrate that such retention and use would be
229 unsafe, impractical, or an infringement upon the rights of other
230 clients.

231 4. Has unrestricted private communication, including
232 receiving and sending unopened correspondence, access to a
233 telephone, and visiting with any person of his or her choice, at
234 any time between the hours of 9 a.m. and 9 p.m. at a minimum.
235 Upon request, the licensee shall make provisions to extend
236 visiting hours for caregivers and guests.

237 5. Participates in and benefits from community services
238 and activities to achieve the highest possible level of
239 independence, autonomy, and interaction within the community.

240 6. Manages his or her financial affairs unless the client
241 or, if applicable, the client's representative authorizes the
242 administrator of the facility to provide safekeeping for funds
243 as provided in this part.

244 7. Has reasonable opportunity for regular exercise several
245 times a week and to be outdoors at regular and frequent
246 intervals except when prevented by inclement weather.

247 8. Exercises civil and religious liberties, including the
248 right to independent personal decisions. No religious belief or
249 practice, including attendance at religious services, shall be
250 imposed upon any client.

251 9. Has access to adequate health care as appropriate for
252 the client and consistent with established and recognized

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253 | standards within the community.

254 | 10. Has the ability to present grievances and recommend
255 | changes in policies, procedures, and services to the staff of
256 | the licensee, governing officials, or any other person without
257 | restraint, interference, coercion, discrimination, or reprisal.
258 | Each licensee shall establish a grievance procedure to
259 | facilitate a client's exercise of this right. This right
260 | includes access to ombudsman volunteers and advocates and the
261 | right to be a member of, be active in, and associate with
262 | advocacy or special interest groups.

263 | (b) Promote participation of each client's representative
264 | in the process of providing treatment to the client unless the
265 | representative's participation is unobtainable or inappropriate.

266 | (c) Answer communications from each client's family and
267 | friends promptly and appropriately.

268 | (d) Promote visits by individuals with a relationship to
269 | the client at any reasonable hour, without requiring prior
270 | notice, or in any area of the facility that provides direct
271 | client care services to the client, consistent with the client's
272 | and other clients' privacy, unless the interdisciplinary team
273 | determines that such a visit would not be appropriate.

274 | (e) Promote leave from the facility for visits, trips, or
275 | vacations.

276 | (f) Promptly notify the client's representative of any
277 | significant incidents or changes in the client's condition,
278 | including, but not limited to, serious illness, accident, abuse,
279 | unauthorized absence, or death.

280 | (2) The administrator of a facility shall ensure that a

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281 written notice of licensee responsibilities is posted in a
282 prominent place in each building where clients reside and read
283 or explained to clients who cannot read. This notice shall
284 include the statewide toll-free telephone number for reporting
285 complaints to the agency, must be provided to clients in a
286 manner that is clearly legible, and must include the words: "To
287 report a complaint regarding the services you receive, please
288 call toll-free ...[telephone number]...; the statewide toll-free
289 telephone number for the central abuse hotline must be provided
290 to clients in a manner that is clearly legible and must include
291 the words: "To report abuse, neglect or exploitation, please
292 call toll-free ...[telephone number]..." and the Disability
293 Rights of Florida and the Florida local advocacy council, where
294 complaints may be lodged. The licensee must ensure a client's
295 access to a telephone to call the agency, central abuse hotline,
296 Disabilities Rights of Florida, and the Florida local advocacy
297 council.

298 (3) No licensee or employee of a facility may serve notice
299 upon a client to leave the premises or take any other
300 retaliatory action against any person who:

301 (a) Files an internal or external complaint or grievance
302 regarding the facility.

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

305 (4) Before or at the time of admission, the client and the
306 client's representative shall be provided with a copy of the
307 client's contract and a copy of the licensee's responsibilities
308 as provided in subsection (1).

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309 (5) The licensee must develop and implement policies and
310 procedures governing the release of any client information,
311 including consent necessary from the client or the client's
312 representative.

313 Section 8. Section 400.9976, Florida Statutes, is created
314 to read:

315 400.9976 Medication practices.-

316 (1) An individual medication administration record must be
317 maintained for each client. Each dose of medication, including a
318 self-administered dose, shall be properly recorded in the
319 client's record. All medications must be administered in
320 compliance with the physician's orders. All medications,
321 including those that are self-administered, must be administered
322 without discrepancy between what the physician has ordered and
323 what is administered.

324 (2) If the interdisciplinary team determines that self-
325 administration of medications is an appropriate objective, and
326 if the physician does not specify otherwise, a client must be
327 taught to self-administer his or her medication without a staff
328 person's obtaining, selecting, or preparing the medication for
329 the client. This includes all forms of administration, including
330 orally, via injection, and via suppository. The client's
331 physician must be informed of the interdisciplinary team's
332 decision that self-administration of medications is an objective
333 for the client. A client may not self-administer medication
334 until he or she demonstrates the competency to take the correct
335 medication in the correct dosage at the correct time.

336 (3) Medication administration discrepancies and adverse

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337 drug reactions must be recorded and reported immediately to a
338 physician.

339 Section 9. Section 400.9977, Florida Statutes, is created
340 to read:

341 400.9977 Protection from abuse, neglect, mistreatment, and
342 exploitation.—The licensee must develop and implement policies
343 and procedures for the screening and training of employees, the
344 protection of clients, and the prevention, identification,
345 investigation, and reporting of abuse, neglect, mistreatment,
346 and exploitation. This includes the licensee's identification of
347 clients whose personal histories render them at risk for abusing
348 other clients, development of intervention strategies to prevent
349 occurrences, monitoring for changes that would trigger abusive
350 behavior, and reassessment of the interventions on a regular
351 basis. Licensees must implement procedures to:

352 (1) Screen potential employees for a history of abuse,
353 neglect, or mistreatment of clients. The screening shall include
354 an attempt to obtain information from previous employers and
355 current employers and verification with the appropriate
356 licensing boards and registries.

357 (2) Train employees, through orientation and ongoing
358 sessions, on issues related to abuse prohibition practices,
359 including identification of abuse, neglect, mistreatment, and
360 exploitation, appropriate interventions to deal with aggressive
361 or catastrophic reactions of clients, the process to report
362 allegations without fear of reprisal, and recognition of signs
363 of frustration and stress that may lead to abuse.

364 (3) Provide clients, families, and staff with information

365 on how and to whom they may report concerns, incidents, and
366 grievances without the fear of retribution and provide feedback
367 regarding the concerns that have been expressed. A licensee must
368 identify, correct, and intervene in situations in which abuse,
369 neglect, mistreatment, or exploitation is likely to occur,
370 including:

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

374 (b) Providing sufficient staff on each shift to meet the
375 needs of the clients, and ensuring that the staff assigned have
376 knowledge of the individual clients' care needs. The licensee
377 shall identify inappropriate behaviors of its staff, such as
378 using derogatory language, rough handling, ignoring clients
379 while giving care, and directing clients who need toileting
380 assistance to urinate or defecate in their beds.

381 (c) Assessing, planning care for, and monitoring clients
382 with needs and behaviors that might lead to conflict or neglect,
383 such as clients with a history of aggressive behaviors, clients
384 who have behaviors such as entering other clients' rooms,
385 clients with self-injurious behaviors, clients with
386 communication disorders, and clients who require heavy nursing
387 care or are totally dependent on staff.

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

391 (5) Investigate different types of incidents, identify the
392 staff member responsible for the initial reporting, investigate

393 | alleged violations, and report results to the proper
 394 | authorities.

395 | (6) Protect clients from harm during an investigation.

396 | (7) Report all alleged violations and all substantiated
 397 | incidents, as required under chapters 39 and 415, to the
 398 | licensing authorities and report any knowledge it has of any
 399 | actions by a court of law that would indicate an employee is
 400 | unfit for service to the licensing authorities and other
 401 | agencies as required. The licensee must take all necessary
 402 | corrective actions depending on the results of the
 403 | investigation.

404 |
 405 | The licensee must analyze the occurrences to determine what
 406 | changes are needed, if any, to policies and procedures to
 407 | prevent further occurrences.

408 | Section 10. Section 400.9978, Florida Statutes, is created
 409 | to read:

410 | 400.9978 Restraints and seclusion; client safety.—

411 | (1) The use of physical restraints must be ordered and
 412 | documented by the client's physician with the consent of the
 413 | client or, if applicable, the client's representative.

414 | (2) The use of chemical restraints is limited to
 415 | prescribed dosages of medications prescribed by the client's
 416 | physician with the consent of the client or, if applicable, the
 417 | client's representative and must be consistent with the client's
 418 | diagnosis.

419 | (3) A client who is receiving a medication that can serve
 420 | as a chemical restraint must be evaluated by his or her

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421 physician at least monthly to assess:

422 (a) The continued need for the medication.

423 (b) The level of the medication in the client's blood.

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

425 (4) The licensee shall ensure that clients are free from
426 unnecessary drugs and physical restraints and are provided
427 treatment to reduce dependency on drugs and physical restraints.

428 (5) The licensee may use physical restraints only as an
429 integral part of an individual program plan that is intended to
430 lead to less restrictive means of managing and eliminating the
431 behavior for which the restraint is applied.

432 (6) Interventions to manage inappropriate client behavior
433 must be employed with sufficient safeguards and supervision to
434 ensure that the safety, welfare, and civil and human rights of
435 each client are adequately protected.

436 Section 11. Section 400.9979, Florida Statutes, is created
437 to read:

438 400.9979 Background screening; administration and
439 management.—

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

443 (2) The licensee shall maintain personnel records for each
444 staff member that contain, at a minimum, documentation of
445 background screening, if applicable, a job description,
446 documentation of compliance with all training requirements of
447 this part or applicable rule, the employment application,
448 references, a copy of all job performance evaluations, and, for

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449 each staff member who performs services for which licensure or
450 certification is required, a copy of all licenses or
451 certification held by the staff member.

452 (3) The licensee must:

453 (a) Develop and implement infection control policies and
454 procedures and include such policies and procedures in the
455 licensee's policy manual.

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

457 (c) Designate one person as an administrator who is
458 responsible and accountable for the overall management of the
459 facility.

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

463 (e) Obtain approval of the comprehensive emergency
464 management plan, pursuant to s. 400.9981(2)(e), from the local
465 emergency management agency. Pending the approval of the plan,
466 the local emergency management agency shall ensure that the
467 following agencies, at a minimum, are given the opportunity to
468 review the plan: the Department of Health, the Agency for Health
469 Care Administration, and the Division of Emergency Management.
470 Appropriate volunteer organizations must also be given the
471 opportunity to review the plan. The local emergency management
472 agency shall complete its review within 60 days and either
473 approve the plan or advise the licensee of necessary revisions.

474 (f) Maintain written records in a form and system that
475 comply with medical and business practices and make such records
476 available in the facility for review or submission to the agency

477 | upon request. The records shall include:

478 | 1. A daily census record that indicates the number of
 479 | clients currently receiving services in the facility, including
 480 | information regarding any public funding of such clients.

481 | 2. A record of all accidents or unusual incidents
 482 | involving any client or staff member that caused, or had the
 483 | potential to cause, injury or harm to any person or property
 484 | within the facility. Such records must contain a clear
 485 | description of each accident or incident, the names of the
 486 | persons involved, a description of all medical or other services
 487 | provided to these persons specifying who provided such services,
 488 | and the steps taken to prevent recurrence of such accidents or
 489 | incidents.

490 | 3. A copy of current agreements with third-party
 491 | providers.

492 | 4. A copy of current agreements with each consultant
 493 | employed by the licensee and documentation of each consultant's
 494 | visits and required written, dated reports.

495 | Section 12. Section 400.9980, Florida Statutes, is created
 496 | to read:

497 | 400.9980 Property and personal affairs of clients.-

498 | (1) A client shall be given the option of using his or her
 499 | own belongings, as space permits; choosing his or her roommate;
 500 | and, whenever possible, unless the client is adjudicated
 501 | incompetent or incapacitated under state law, managing his or
 502 | her own affairs.

503 | (2) The admission of a client to a facility and his or her
 504 | presence therein shall not confer on a licensee, administrator,

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505 employee, or representative thereof any authority to manage,
506 use, or dispose of any property of the client, nor shall such
507 admission or presence confer on any of such persons any
508 authority or responsibility for the personal affairs of the
509 client except that which may be necessary for the safe
510 management of the facility or for the safety of the client.

511 (3) A licensee, administrator, employee, or representative
512 thereof may:

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

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

521 (c) Act as the power of attorney for a client if the
522 licensee has filed a surety bond with the agency in an amount
523 equal to twice the average monthly income of the client, plus
524 the value of any client's property under the control of the
525 attorney in fact.

526
527 The bond under paragraph (b) or paragraph (c) shall be executed
528 by the licensee as principal and a licensed surety company. The
529 bond shall be conditioned upon the faithful compliance of the
530 licensee with the requirements of licensure and shall be payable
531 to the agency for the benefit of any client who suffers a
532 financial loss as a result of the misuse or misappropriation of

533 funds held pursuant to this subsection. Any surety company that
534 cancel or does not renew the bond of any licensee shall notify
535 the agency in writing not less than 30 days in advance of such
536 action, giving the reason for the cancellation or nonrenewal.
537 Any licensee, administrator, employee, or representative thereof
538 who is granted power of attorney for any client of the facility
539 shall, on a monthly basis, notify the client in writing of any
540 transaction made on behalf of the client pursuant to this
541 subsection, and a copy of such notification given to the client
542 shall be retained in each client's file and available for agency
543 inspection.

544 (4) A licensee, upon mutual consent with the client, shall
545 provide for the safekeeping in the facility of the client's
546 personal effects of a value not in excess of \$1,000 and the
547 client's funds not in excess of \$500 cash and shall keep
548 complete and accurate records of all such funds and personal
549 effects received. If a client is absent from a facility for 24
550 hours or more, the licensee may provide for the safekeeping of
551 the client's personal effects of a value in excess of \$1,000.

552 (5) Any funds or other property belonging to or due to a
553 client or expendable for his or her account that is received by
554 licensee shall be trust funds and shall be kept separate from
555 the funds and property of the licensee and other clients or
556 shall be specifically credited to such client. Such trust funds
557 shall be used or otherwise expended only for the account of the
558 client. At least once every month, unless upon order of a court
559 of competent jurisdiction, the licensee shall furnish the client
560 and the client's representative a complete and verified

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561 statement of all funds and other property to which this
562 subsection applies, detailing the amount and items received,
563 together with their sources and disposition. In any event, the
564 licensee shall furnish such statement annually and upon the
565 discharge or transfer of a client. Any governmental agency or
566 private charitable agency contributing funds or other property
567 to the account of a client shall also be entitled to receive
568 such statement monthly and upon the discharge or transfer of the
569 client.

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

572 1. Intentionally withholds a client's personal funds,
573 personal property, or personal needs allowance, or who demands,
574 beneficially receives, or contracts for payment of all or any
575 part of a client's personal property or personal needs allowance
576 in satisfaction of the facility rate for supplies and services;
577 or

578 2. Borrows from or pledges any personal funds of a client,
579 other than the amount agreed to by written contract under s.
580 429.24,

581
582 commits a misdemeanor of the first degree, punishable as
583 provided in s. 775.082 or s. 775.083.

584 (b) Any licensee, administrator, employee, or
585 representative thereof who is granted power of attorney for any
586 client of the facility and who misuses or misappropriates funds
587 obtained through this power commits a felony of the third
588 degree, punishable as provided in s. 775.082, s. 775.083, or s.

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589 775.084.

590 (7) In the event of the death of a client, a licensee
591 shall return all refunds, funds, and property held in trust to
592 the client's personal representative, if one has been appointed
593 at the time the licensee disburses such funds, or, if not, to
594 the client's spouse or adult next of kin named in a beneficiary
595 designation form provided by the licensee to the client. If the
596 client has no spouse or adult next of kin or such person cannot
597 be located, funds due the client shall be placed in an interest-
598 bearing account and all property held in trust by the licensee
599 shall be safeguarded until such time as the funds and property
600 are disbursed pursuant to the Florida Probate Code. Such funds
601 shall be kept separate from the funds and property of the
602 licensee and other clients of the facility. If the funds of the
603 deceased client are not disbursed pursuant to the Florida
604 Probate Code within 2 years after the client's death, the funds
605 shall be deposited in the Health Care Trust Fund administered by
606 the agency.

607 (8) The agency may by rule clarify terms and specify
608 procedures and documentation necessary to administer the
609 provisions of this section relating to the proper management of
610 clients' funds and personal property and the execution of surety
611 bonds.

612 Section 13. Section 400.9981, Florida Statutes, is created
613 to read:

614 400.9981 Rules establishing standards.-

615 (1) It is the intent of the Legislature that rules
616 published and enforced pursuant to this part and part II of

617 chapter 408 include criteria to ensure reasonable and consistent
618 quality of care and client safety. Rules should make reasonable
619 efforts to accommodate the needs and preferences of clients to
620 enhance the quality of life in transitional living facilities.

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

625 (a) The location of transitional living facilities.

626 (b) The number of qualifications of all personnel,
627 including management, medical, nursing, and other professional
628 personnel and nursing assistants and support personnel having
629 responsibility for any part of the care given to clients. The
630 licensee must have enough qualified professional staff available
631 to carry out and monitor the various professional interventions
632 in accordance with the stated goals and objectives of each
633 individual program plan.

634 (c) Requirements for personnel procedures, insurance
635 coverage, reporting procedures, and documentation necessary to
636 implement this part.

637 (d) Services provided to clients of transitional living
638 facilities.

639 (e) The preparation and annual update of a comprehensive
640 emergency management plan in consultation with the Division of
641 Emergency Management. At a minimum, the rules must provide for
642 plan components that address emergency evacuation
643 transportation; adequate sheltering arrangements; postdisaster
644 activities, including provision of emergency power, food, and

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645 water; postdisaster transportation; supplies; staffing;
646 emergency equipment; individual identification of clients and
647 transfer of records; communication with families; and responses
648 to family inquiries.

649 Section 14. Section 400.9982, Florida Statutes, is created
650 to read:

651 400.9982 Violations; penalties.-

652 (1) Each violation of this part and rules adopted pursuant
653 thereto shall be classified according to the nature of the
654 violation and the gravity of its probable effect on facility
655 clients. The agency shall indicate the classification on the
656 written notice of the violation as follows:

657 (a) Class "I" violations are defined in s. 408.813. The
658 agency shall issue a citation regardless of correction and
659 impose an administrative fine of \$5,000 for an isolated
660 violation, \$7,500 for a patterned violation, and \$10,000 for a
661 widespread violation. Violations may be identified and a fine
662 must be levied notwithstanding the correction of the deficiency
663 giving rise to the violation.

664 (b) Class "II" violations are defined in s. 408.813. The
665 agency shall impose an administrative fine of \$1,000 for an
666 isolated violation, \$2,500 for a patterned violation, and \$5,000
667 for a widespread violation. A fine must be levied
668 notwithstanding the correction of the deficiency giving rise to
669 the violation.

670 (c) Class "III" violations are defined in s. 408.813. The
671 agency shall impose an administrative fine of \$500 for an
672 isolated violation, \$750 for a patterned violation, and \$1,000

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673 for a widespread violation. If a deficiency giving rise to a
674 class "III" violation is corrected within the time specified by
675 the agency, a fine may not be imposed.

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

680 Section 15. Section 400.9983, Florida Statutes, is created
681 to read:

682 400.9983 Receivership proceedings.-

683 (1) As an alternative to or in conjunction with an
684 injunctive proceeding, the agency may petition a court of
685 competent jurisdiction for the appointment of a receiver when
686 any of the following conditions exists:

687 (a) The licensee is closing the facility or has informed
688 the agency that it intends to close the facility and adequate
689 arrangements have not been made for relocation of the clients
690 within 7 days, exclusive of weekends and holidays, after the
691 closing of the facility.

692 (b) A condition in the facility presents an imminent
693 danger to the health, safety, or welfare of the clients of the
694 facility or a substantial probability of death or serious
695 physical harm to clients of the facility.

696 (c) The licensee cannot meet its financial obligation for
697 providing food, shelter, care, and utilities. Evidence such as
698 the issuance of bad checks or an accumulation of delinquent
699 bills for such items as personnel salaries, food, drugs, or
700 utilities shall constitute prima facie evidence that the

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701 ownership of the facility lacks the financial ability to
702 operate.

703 (2) Petitions for receivership shall take precedence over
704 other court business unless the court determines that some other
705 pending proceeding having similar statutory precedence has
706 priority. A hearing shall be conducted within 5 days after the
707 filing of the petition, at which time all interested parties
708 shall have the opportunity to present evidence pertaining to the
709 petition. The agency shall notify the owner or administrator of
710 the facility named in the petition of the filing of the petition
711 and the date set for the hearing. The court may grant the
712 petition only upon finding that the health, safety, or welfare
713 of clients of the facility would be threatened if a condition
714 existing at the time the petition was filed is allowed to
715 continue. A receiver may not be appointed when the owner or
716 administrator, or a representative of the owner or
717 administrator, is not present at the hearing on the petition
718 unless the court determines that one or more of the conditions
719 in subsection (1) exist; that the licensee or administrator
720 cannot be found; that all reasonable means of locating the owner
721 or the administrator and notifying him or her of the petition
722 and hearing have been exhausted; or that the owner or
723 administrator, after notification of the hearing, chooses not to
724 attend. After such findings, the court may appoint any person
725 qualified by education, training, or experience to carry out the
726 responsibilities of a receiver pursuant to this section, except
727 that the court may not appoint any owner or affiliate of the
728 licensee of the facility. The receiver may be selected from a

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729 list of persons qualified to act as receivers developed by the
730 agency and presented to the court with each petition for
731 receivership. Under no circumstances shall the agency or
732 designated agency employee be appointed as a receiver for more
733 than 60 days; however, the receiver may petition the court, one
734 time only, for a 30-day extension. The court shall grant the
735 extension upon a showing of good cause.

736 (3) The receiver shall make provisions for the continued
737 health, safety, and welfare of all clients of the facility and:

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

740 (b) Shall operate the facility in such a manner as to
741 ensure safety and adequate health care for the clients.

742 (c) Shall take such action as is reasonably necessary to
743 protect or conserve the assets or property of the facility for
744 which the receiver is appointed, or the proceeds from any
745 transfer thereof, and may use them only in the performance of
746 the powers and duties set forth in this section and by order of
747 the court.

748 (d) May use the building, fixtures, furnishings, and any
749 accompanying consumable goods in the provision of care and
750 services to clients and to any other persons receiving services
751 from the facility at the time the petition for receivership was
752 filed. The receiver shall collect payments for all goods and
753 services provided to clients or others during the period of the
754 receivership at the same rate of payment charged by the owners
755 at the time the petition for receivership was filed or at a fair
756 and reasonable rate otherwise approved by the court for private-

757 pay clients.

758 (e) May correct or eliminate any deficiency in the
759 structure or furnishings of the facility that endangers the
760 safety or health of clients while they remain in the facility,
761 provided the total cost of correction does not exceed \$10,000.
762 The court may order expenditures for this purpose in excess of
763 \$10,000 on application from the receiver after notice to the
764 owner and a hearing.

765 (f) May let contracts and hire agents and employees to
766 carry out the powers and duties of the receiver under this
767 section.

768 (g) Shall honor all leases, mortgages, and secured
769 transactions governing the building in which the facility is
770 located and all goods and fixtures in the building of which the
771 receiver has taken possession, but only to the extent of
772 payments that, in the case of a rental agreement, are for the
773 use of the property during the period of receivership or that,
774 in the case of a purchase agreement, become due during the
775 period of receivership.

776 (h) Shall have full power to direct and manage and to
777 discharge employees of the facility, subject to any contract
778 rights such employees may have. The receiver shall pay employees
779 at the rate of compensation, including benefits, approved by the
780 court. A receivership does not relieve the owner of any
781 obligation to employees made before the appointment of a
782 receiver and not carried out by the receiver.

783 (i) Shall be entitled to take possession of all property
784 or assets of clients that are in the possession of a facility or

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785 its licensee. The receiver shall preserve all property or assets
786 and all client records of which the receiver takes possession
787 and shall provide for the prompt transfer of the property,
788 assets, and records to the new placement of any transferred
789 client. An inventory list certified by the owner and receiver
790 shall be made at the time the receiver takes possession of the
791 facility.

792 (4) (a) A person who is served with notice of an order of
793 the court appointing a receiver and of the receiver's name and
794 address shall be liable to pay the receiver for any goods or
795 services provided by the receiver after the date of the order if
796 the person would have been liable for the goods or services as
797 supplied by the owner. The receiver shall give a receipt for
798 each payment and shall keep a copy of each receipt on file. The
799 receiver shall deposit accounts received in a separate account
800 and shall use this account for all disbursements.

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

803 (c) A payment to the receiver of any sum owing to the
804 licensee shall discharge the obligation to the licensee.

805 (5) (a) A receiver may petition the court that he or she
806 not be required to honor any lease, mortgage, secured
807 transaction, or other wholly or partially executory contract
808 entered into by the licensee if the rent, price, or rate of
809 interest required to be paid under the agreement was
810 substantially in excess of a reasonable rent, price, or rate of
811 interest at the time the contract was entered into, or if any
812 material provision of the agreement was unreasonable, when

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813 compared to contracts negotiated under similar conditions. Any
814 relief in this form provided by the court shall be limited to
815 the life of the receivership unless otherwise determined by the
816 court.

817 (b) If the receiver is in possession of real estate or
818 goods subject to a lease, mortgage, or security interest that
819 the receiver has obtained a court order to avoid under paragraph
820 (a), and if the real estate or goods are necessary for the
821 continued operation of the facility under this part, the
822 receiver may apply to the court to set a reasonable rental,
823 price, or rate of interest to be paid by the receiver during the
824 duration of the receivership. The court shall hold a hearing on
825 the application within 15 days. The receiver shall send notice
826 of the application to any known persons who own the property
827 involved or mortgage holders at least 10 days before the
828 hearing. Payment by the receiver of the amount determined by the
829 court to be reasonable is a defense to any action against the
830 receiver for payment or for possession of the goods or real
831 estate subject to the lease, security interest, or mortgage
832 involved by any person who received such notice, but the payment
833 does not relieve the licensee of any liability for the
834 difference between the amount paid by the receiver and the
835 amount due under the original lease, security interest, or
836 mortgage involved.

837 (6) The court shall set the compensation of the receiver,
838 which will be considered a necessary expense of a receivership.

839 (7) A receiver may be held liable in a personal capacity
840 only for the receiver's own gross negligence, intentional acts,

841 or breach of fiduciary duty.

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

843 (9) The court may terminate a receivership when:

844 (a) The court determines that the receivership is no
845 longer necessary because the conditions that gave rise to the
846 receivership no longer exist; or

847 (b) All of the clients in the facility have been
848 transferred or discharged.

849 (10) Within 30 days after the termination, unless this
850 time period is extended by the court, the receiver shall give
851 the court a complete accounting of all property of which the
852 receiver has taken possession, of all funds collected and
853 disbursed, and of the expenses of the receivership.

854 (11) Nothing in this section relieves any licensee,
855 administrator, or employee of a licensee placed in receivership
856 of any civil or criminal liability incurred, or of any duty
857 imposed by law, by reason of acts or omissions of the licensee,
858 administrator, or employee before the appointment of a receiver,
859 nor shall anything contained in this section be construed to
860 suspend during the receivership any obligation of the licensee,
861 administrator, or employee for payment of taxes or other
862 operating and maintenance expenses of the facility or of the
863 licensee, administrator, employee, or any other person for the
864 payment of mortgages or liens. The licensee shall retain the
865 right to sell or mortgage any facility under receivership,
866 subject to approval of the court that ordered the receivership.
867 A licensee that is placed in receivership by the court is liable
868 for all expenses and costs incurred by the Health Care Trust

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869 Fund that are related to capital improvement and operating
870 costs.

871 Section 16. Section 400.9984, Florida Statutes, is created
872 to read:

873 400.9984 Interagency communication.—The agency, the
874 department, the Agency for Persons with Disabilities, and the
875 Department of Children and Families shall develop an electronic
876 database to ensure that relevant information pertaining to the
877 regulation of transitional living facilities and clients is
878 timely and effectively communicated among agencies in order to
879 facilitate the protection of clients. Electronic sharing of
880 information shall include, at a minimum, a brain and spinal cord
881 injury registry and a client abuse registry.

882 Section 17. Section 400.805, Florida Statutes, is
883 repealed.

884 Section 18. Paragraph (b) of subsection (4) of section
885 381.78, Florida Statutes, is amended to read:

886 381.78 Advisory council on brain and spinal cord
887 injuries.—

888 (4) The council shall:

889 (b) Annually appoint a five-member committee composed of
890 one individual who has a brain injury or has a family member
891 with a brain injury, one individual who has a spinal cord injury
892 or has a family member with a spinal cord injury, and three
893 members who shall be chosen from among these representative
894 groups: physicians, other allied health professionals,
895 administrators of brain and spinal cord injury programs, and
896 representatives from support groups with expertise in areas

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897 related to the rehabilitation of individuals who have brain or
898 spinal cord injuries, except that one and only one member of the
899 committee shall be an administrator of a transitional living
900 facility. Membership on the council is not a prerequisite for
901 membership on this committee.

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

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

913 3. Onsite investigations by the committee shall be funded
914 by the Health Care Trust Fund.

915 4. Travel expenses for committee members shall be
916 reimbursed in accordance with s. 112.061.

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

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