

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, discharge, and length of
13 residency; creating s. 400.9974, F.S.; requiring a
14 comprehensive treatment plan to be developed for each
15 client; providing plan requirements; creating s.
16 400.9975, F.S.; providing licensee responsibilities;
17 providing notice requirements; prohibiting a licensee
18 or employee of a facility from serving notice upon a
19 client to leave the premises or take other retaliatory
20 action; requiring the client and client's
21 representative to be provided with certain
22 information; requiring the licensee to develop and
23 implement certain policies and procedures; creating s.
24 400.9976, F.S.; providing licensee requirements
25 relating to medication practices; creating s.
26 400.9977, F.S.; providing requirements for the
27 screening of potential employees and monitoring of
28 employees for the protection of clients; requiring

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

57 | proceedings; creating s. 400.9984, F.S.; requiring the
58 | Agency for Health Care Administration, the Department
59 | of Health, the Agency for Persons with Disabilities,
60 | and the Department of Children and Families to develop
61 | electronic systems for certain purposes; repealing s.
62 | 400.805, F.S., relating to transitional living
63 | facilities; amending s. 381.78, F.S.; conforming
64 | provisions to changes made by the act; providing an
65 | 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 agency to ensure quality
78 | of care and services to clients in transitional living
79 | facilities. It is the policy of the state that the least
80 | restrictive appropriate available treatment be used based on the
81 | individual needs and best interests of the client and consistent
82 | with optimum improvement of the client's condition. The goal of
83 | a transitional living program for individuals who have brain or
84 | spinal cord injuries is to assist each individual who has such

85 an injury to achieve a higher level of independent functioning
 86 and to enable that individual to reenter the community.

87 Section 3. Section 400.9971, Florida Statutes, is created
 88 to read:

89 400.9971 Definitions.—As used in this part, the term:

90 (1) "Agency" means the Agency for Health Care
 91 Administration.

92 (2) "Chemical restraint" means a pharmacologic drug that
 93 physically limits, restricts, or deprives an individual of
 94 movement or mobility, is used for client protection or safety,
 95 and is not required for the treatment of medical conditions or
 96 symptoms.

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

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

101 (5) "Licensee" means an individual issued a license by the
 102 agency.

103 (6) "Physical restraint" means any manual method to
 104 restrict freedom of movement of or normal access to an
 105 individual's body, or a physical or mechanical device, material,
 106 or equipment attached or adjacent to the individual's body so
 107 that he or she cannot easily remove the restraint and that
 108 restricts freedom of movement of or normal access to one's body,
 109 including, but not limited to, a half-bed rail, a full-bed rail,
 110 a geriatric chair, and a posey restraint. The term includes any
 111 device that was not specifically manufactured as a restraint but
 112 that has been altered, arranged, or otherwise used for this

113 purpose. The term does not include bandage material used for the
114 purpose of binding a wound or injury.

115 (7) "Transitional living facility" means a site where
116 specialized health care services are provided, including, but
117 not limited to, rehabilitative services, behavior modification,
118 community reentry training, aids for independent living, and
119 counseling to brain-injured persons and spinal-cord-injured
120 persons. The term does not include a hospital licensed under
121 chapter 395 or any federally operated hospital or facility.

122 Section 4. Section 400.9972, Florida Statutes, is created
123 to read:

124 400.9972 License required; fee; application.—

125 (1) The requirements of part II of chapter 408 apply to
126 the provision of services that require licensure pursuant to
127 this part and part II of chapter 408 and to entities licensed by
128 or applying for such licensure from the agency pursuant to this
129 part. A license issued by the agency is required for the
130 operation of a transitional living facility in this state.

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

136 (3) Each applicant for licensure must provide:

137 (a) The location of the facility for which a license is
138 sought and documentation, signed by the appropriate local
139 government official, that states that the applicant has met
140 local zoning requirements.

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

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

145 (d) Proof that the facility has received a satisfactory
 146 firesafety inspection.

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

149 Section 5. Section 400.9973, Florida Statutes, is created
 150 to read:

151 400.9973 Client admission, transfer, and discharge.-

152 (1) Each transitional living facility must have written
 153 policies and procedures governing the admission, transfer, and
 154 discharge of clients.

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

158 (3) A client admitted to a transitional living facility
 159 must have a brain or spinal cord injury, such as a lesion to the
 160 spinal cord or cauda equina syndrome, with evidence of
 161 significant involvement of two of the following deficits or
 162 dysfunctions:

163 (a) A motor deficit.

164 (b) A sensory deficit.

165 (c) Bowel and bladder dysfunction.

166 (d) An injury to the skull, the brain, or the brain's
 167 covering that produces an altered state of consciousness or an
 168 anatomic motor, sensory, cognitive, or behavioral deficit.

169 (4) A client whose medical diagnosis does not positively
170 identify a cause of the client's condition, whose symptoms are
171 inconsistent with the known cause of injury, or whose recovery
172 is inconsistent with the known medical condition may be admitted
173 to a transitional living facility for evaluation for a period
174 not to exceed 90 days.

175 (5) A client admitted to a transitional living facility
176 must be admitted upon prescription by a licensed physician and
177 must remain under the care of a licensed physician for the
178 duration of the client's stay in the facility.

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

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

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

187 (b) Is a danger to self or others as determined by a
188 physician or mental health practitioner licensed under chapter
189 490 or chapter 491, unless the facility provides adequate
190 staffing and support to ensure patient safety;

191 (c) Is bedridden; or

192 (d) Requires 24-hour nursing supervision.

193 (8) If the client meets the admission criteria, the
194 medical or nursing director of the facility must complete an
195 initial evaluation of the client's functional skills, behavioral
196 status, cognitive status, educational or vocational potential,

197 medical status, psychosocial status, sensorimotor capacity, and
 198 other related skills and abilities within the first 72 hours
 199 after the client's admission to the facility. An initial
 200 comprehensive treatment plan that delineates services to be
 201 provided and appropriate sources for such services must be
 202 implemented within the first 4 days after admission.

203 (9) Each transitional living facility shall develop a
 204 discharge plan for each client before or upon admission to the
 205 facility. The discharge plan must identify the intended
 206 discharge site and possible alternative discharge sites. For
 207 each discharge site identified, the discharge plan must identify
 208 the skills, behaviors, and other conditions that the client must
 209 achieve to be appropriate for discharge. Discharge plans must be
 210 reviewed and updated as necessary, but no less often than once
 211 monthly.

212 (10) As soon as practicable, a transitional living
 213 facility shall discharge a client when he or she no longer
 214 requires any of the specialized services described in s.
 215 400.9971(7) or is not making measurable progress in accordance
 216 with his or her comprehensive treatment plan, or if the
 217 transitional living facility is no longer the most appropriate,
 218 least restrictive treatment option.

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

224 (12) A client may not reside in a transitional living

225 facility for more than 2 years unless a referral is made to
 226 Disability Rights Florida at least 21 months after admission and
 227 the client or, if appropriate, the client's representative
 228 requests that the client continue to receive treatment at the
 229 transitional living facility.

230 Section 6. Section 400.9974, Florida Statutes, is created
 231 to read:

232 400.9974 Client treatment plans; client services.—

233 (1) Each transitional living facility shall develop a
 234 comprehensive treatment plan for each client as soon as
 235 possible, but no later than 30 days following development of the
 236 initial comprehensive treatment plan. Comprehensive treatment
 237 plans must be reviewed and updated if the client fails to meet
 238 projected improvements in the plan or if a significant change in
 239 the client's condition occurs. Treatment plans must be reviewed
 240 and updated no less often than once monthly. Comprehensive
 241 treatment plans must be developed by an interdisciplinary team
 242 consisting of the case manager, the program director, the nurse,
 243 and appropriate therapists. The client or, if appropriate, the
 244 client's representative must be included in developing the
 245 comprehensive treatment plan.

246 (2) The comprehensive treatment plan must include:

247 (a) The physician's orders and the client's diagnosis,
 248 medical history, physical examination, and rehabilitative or
 249 restorative needs.

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

252 (c) A comprehensive, accurate, reproducible, and

253 standardized assessment of the client's functional capability;
254 the treatments designed to achieve skills, behaviors, and other
255 conditions necessary to return to the community; and specific
256 measurable goals.

257 (d) Steps necessary for the client to achieve transition
258 to the community and estimated length of time to achieve the
259 goals.

260 (3) The client or, if appropriate, the client's
261 representative shall consent to the continued treatment at the
262 transitional living facility. If such consent is not given, the
263 transitional living facility shall discharge the client as soon
264 as practicable.

265 (4) Each client must receive the professional program
266 services needed to implement the client's comprehensive
267 treatment plan.

268 (5) The licensee must employ available qualified
269 professional staff to carry out and monitor the various
270 professional interventions in accordance with the stated goals
271 and objectives of every comprehensive treatment plan.

272 (6) Each client must receive a continuous treatment
273 program that includes appropriate, consistent implementation of
274 a program of specialized and general training, treatment, health
275 services, and related services that is directed toward:

276 (a) The acquisition of the behaviors necessary for the
277 client to function with as much self-determination and
278 independence as possible;

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

281 (c) The addressing of behavioral issues that preclude
 282 independent functioning in the community.

283 Section 7. Section 400.9975, Florida Statutes, is created
 284 to read:

285 400.9975 Licensee responsibilities.—

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

287 (a) Lives in a safe environment free from abuse, neglect,
 288 and exploitation.

289 (b) Is treated with consideration and respect and with due
 290 recognition of personal dignity, individuality, and the need for
 291 privacy.

292 (c) Retains and uses his or her own clothes and other
 293 personal property in his or her immediate living quarters, so as
 294 to maintain individuality and personal dignity, except when the
 295 licensee can demonstrate that such retention and use would be
 296 unsafe, impractical, or an infringement upon the rights of other
 297 clients.

298 (d) Has unrestricted private communication, including
 299 receiving and sending unopened correspondence, access to a
 300 telephone, and visiting with any person of his or her choice.
 301 Upon request, the licensee shall make provisions to modify
 302 visiting hours for caregivers and guests. The facility shall
 303 restrict communication in accordance with any court order or
 304 written instruction of a client's representative. Any
 305 restriction on a client's communication for therapeutic reasons
 306 shall be reviewed no less often than weekly and shall be removed
 307 as soon as it is no longer clinically indicated. The basis for
 308 the restriction shall be explained to the client and, if

309 applicable, the client's representative. The client shall
310 nonetheless retain the right to call the abuse hotline, the
311 agency, and Disability Rights Florida at any and all times.

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

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

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

322 (h) Exercises civil and religious liberties, including the
323 right to independent personal decisions. No religious belief or
324 practice, including attendance at religious services, shall be
325 imposed upon any client.

326 (i) Has access to adequate and appropriate health care
327 consistent with established and recognized standards within the
328 community.

329 (j) Has the ability to present grievances and recommend
330 changes in policies, procedures, and services to the staff of
331 the licensee, governing officials, or any other person without
332 restraint, interference, coercion, discrimination, or reprisal.
333 Each licensee shall establish a grievance procedure to
334 facilitate a client's exercise of this right. This right
335 includes access to Disability Rights Florida and other advocates
336 and the right to be a member of, be active in, and associate

337 | with advocacy or special interest groups.

338 | (2) The licensee shall:

339 | (a) Promote participation of each client's representative
 340 | in the process of providing treatment to the client unless the
 341 | representative's participation is unobtainable or inappropriate.

342 | (b) Answer communications from each client's family,
 343 | representatives, and friends promptly and appropriately.

344 | (c) Promote visits by individuals with a relationship to
 345 | the client at any reasonable hour, without requiring prior
 346 | notice, or in any area of the facility that provides direct
 347 | client care services to the client, consistent with the client's
 348 | and other clients' privacy, unless the interdisciplinary team
 349 | determines that such a visit would not be appropriate.

350 | (d) Promote leave from the facility for visits, trips, or
 351 | vacations.

352 | (e) Promptly notify the client's representative of any
 353 | significant incidents or changes in the client's condition,
 354 | including, but not limited to, serious illness, accident, abuse,
 355 | unauthorized absence, or death.

356 | (3) The administrator of a facility shall ensure that a
 357 | written notice of licensee responsibilities is posted in a
 358 | prominent place in each building where clients reside and read
 359 | or explained to clients who cannot read. This notice shall
 360 | include the statewide toll-free telephone number for reporting
 361 | complaints to the agency, must be provided to clients in a
 362 | manner that is clearly legible, and must include the words: "To
 363 | report a complaint regarding the services you receive, please
 364 | call toll-free ...[telephone number]... or Disability Rights

365 Florida ...[telephone number]..."; and the statewide toll-free
366 telephone number for the central abuse hotline must be provided
367 to clients in a manner that is clearly legible and must include
368 the words: "To report abuse, neglect or exploitation, please
369 call toll-free ...[telephone number where complaints may be
370 lodged]...." The licensee must ensure a client's access to a
371 telephone to call the agency, central abuse hotline, Disability
372 Rights Florida, and the Florida local advocacy council.

373 (4) A licensee or employee of a facility may not serve
374 notice upon a client to leave the premises or take any other
375 retaliatory action against any person solely due to the
376 following:

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

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

381 (5) Before or at the time of admission, the client and the
382 client's representative shall be provided with a copy of the
383 client's contract and a copy of the licensee's responsibilities
384 as provided in subsections (1) and (2).

385 (6) The licensee must develop and implement policies and
386 procedures governing the release of any client information,
387 including consent necessary from the client or the client's
388 representative.

389 Section 8. Section 400.9976, Florida Statutes, is created
390 to read:

391 400.9976 Medication practices.—

392 (1) An individual medication administration record must be

393 maintained for each client. Each dose of medication, including a
394 self-administered dose, shall be properly recorded in the
395 client's record. Each client who self-administers medication
396 shall be given a pill organizer. Medication must be placed in
397 the pill organizer by a nurse. A nurse shall document the date
398 and time medication is placed into each client's pill organizer.
399 All medications must be administered in compliance with the
400 physician's orders.

401 (2) If the interdisciplinary team determines that self-
402 administration of medications is an appropriate objective, and
403 if the physician does not specify otherwise, a client must be
404 taught to self-administer his or her medication without a staff
405 person. This includes all forms of administration, including
406 orally, via injection, and via suppository. The client's
407 physician must be informed of the interdisciplinary team's
408 decision that self-administration of medications is an objective
409 for the client. A client may not self-administer medication
410 until he or she demonstrates the competency to take the correct
411 medication in the correct dosage at the correct time, to respond
412 to missed doses, and to contact an appropriate person with
413 questions.

414 (3) Medication administration discrepancies and adverse
415 drug reactions must be recorded and reported immediately to a
416 physician.

417 Section 9. Section 400.9977, Florida Statutes, is created
418 to read:

419 400.9977 Protection from abuse, neglect, mistreatment, and
420 exploitation.—The licensee must develop and implement policies

421 and procedures for the screening and training of employees, the
422 protection of clients, and the prevention, identification,
423 investigation, and reporting of abuse, neglect, and
424 exploitation. This includes the licensee's identification of
425 clients whose personal histories render them at risk for abusing
426 other clients, development of intervention strategies to prevent
427 occurrences, monitoring for changes that would trigger abusive
428 behavior, and reassessment of the interventions on a regular
429 basis. A licensee shall implement procedures to:

430 (1) Screen potential employees for a history of abuse,
431 neglect, or mistreatment of clients. The screening shall include
432 an attempt to obtain information from previous employers and
433 current employers and verification with the appropriate
434 licensing boards and registries.

435 (2) Train employees, through orientation and ongoing
436 sessions, on issues related to abuse prohibition practices,
437 including identification of abuse, neglect, mistreatment, and
438 exploitation, appropriate interventions to deal with aggressive
439 or catastrophic reactions of clients, the process to report
440 allegations without fear of reprisal, and recognition of signs
441 of frustration and stress that may lead to abuse.

442 (3) Provide clients, families, and staff with information
443 on how and to whom they may report concerns, incidents, and
444 grievances without the fear of retribution and provide feedback
445 regarding the concerns that have been expressed. A licensee must
446 identify, correct, and intervene in situations in which abuse,
447 neglect, mistreatment, or exploitation is likely to occur,
448 including:

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

452 (b) Providing sufficient staff on each shift to meet the
453 needs of the clients, and ensuring that the staff assigned have
454 knowledge of the individual clients' care needs. The licensee
455 shall identify inappropriate behaviors of its staff, such as
456 using derogatory language, rough handling, ignoring clients
457 while giving care, and directing clients who need toileting
458 assistance to urinate or defecate in their beds.

459 (c) Assessing, planning care for, and monitoring clients
460 with needs and behaviors that might lead to conflict or neglect,
461 such as clients with a history of aggressive behaviors, clients
462 who have behaviors such as entering other clients' rooms,
463 clients with self-injurious behaviors, clients with
464 communication disorders, and clients who require heavy nursing
465 care or are totally dependent on staff.

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

469 (5) Investigate different types of incidents, identify the
470 staff member responsible for the initial reporting, investigate
471 alleged violations, and report results to the proper
472 authorities. The licensee must analyze the occurrences to
473 determine what changes are needed, if any, to policies and
474 procedures to prevent further occurrences and to take all
475 necessary corrective action depending on the results of the
476 investigation.

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

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

483 Section 10. Section 400.9978, Florida Statutes, is created
484 to read:

485 400.9978 Restraints and seclusion; client safety.—

486 (1) The use of physical restraints must be ordered and
487 documented by a physician and must be consistent with policies
488 and procedures adopted by the facility. The client or, if
489 applicable, the client's representative must be informed of the
490 facility's physical restraint policies and procedures at the
491 time of the client's admission.

492 (2) The use of chemical restraints is limited to
493 prescribed dosages of medications as ordered by a physician and
494 must be consistent with the client's diagnosis and the policies
495 and procedures adopted by the facility. The client or, if
496 applicable, the client's representative must be informed of the
497 facility's chemical restraint policies and procedures at the
498 time of the client's admission.

499 (3) Based on a physician's assessment, when a client
500 exhibits symptoms that present an immediate risk of injury or
501 death to self or others, a physician may issue an emergency
502 treatment order to immediately administer rapid response
503 psychotropic medications or other chemical restraints. Each
504 emergency treatment order must be documented and maintained in

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505 | the client's record.

506 | (a) An emergency treatment order is effective for no more
507 | than 24 hours.

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

511 | (4) A client who is prescribed and receiving a medication
512 | that can serve as a chemical restraint for a purpose other than
513 | an emergency treatment order must be evaluated by his or her
514 | physician at least monthly to assess:

515 | (a) The continued need for the medication.

516 | (b) The level of the medication in the client's blood, as
517 | appropriate.

518 | (c) The need for adjustments in the prescription.

519 | (5) The licensee shall ensure that clients are free from
520 | unnecessary drugs and physical restraints and are provided
521 | treatment to reduce dependency on drugs and physical restraints.

522 | (6) The licensee may use physical restraints only as an
523 | integral part of a comprehensive treatment plan that is intended
524 | to lead to less restrictive means of managing and eliminating
525 | the behavior for which the restraint is applied.

526 | (7) Interventions to manage inappropriate client behavior
527 | must be employed with sufficient safeguards and supervision to
528 | ensure that the safety, welfare, and civil and human rights of
529 | each client are adequately protected.

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

532 | 400.9979 Background screening; administration and

533 management.-

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

537 (2) The licensee shall maintain personnel records for each
538 staff member that contain, at a minimum, documentation of
539 background screening, if applicable, a job description,
540 documentation of compliance with all training requirements of
541 this part or applicable rule, the employment application,
542 references, a copy of all job performance evaluations, and, for
543 each staff member who performs services for which licensure or
544 certification is required, a copy of all licenses or
545 certification held by the staff member.

546 (3) The licensee must:

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

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

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

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

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

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

564 (g) Obtain approval of the comprehensive emergency
565 management plan, pursuant to s. 400.9981(2)(e), from the local
566 emergency management agency. Pending the approval of the plan,
567 the local emergency management agency shall ensure that the
568 following agencies, at a minimum, are given the opportunity to
569 review the plan: the Department of Health, the Agency for Health
570 Care Administration, and the Division of Emergency Management.
571 Appropriate volunteer organizations must also be given the
572 opportunity to review the plan. The local emergency management
573 agency shall complete its review within 60 days and either
574 approve the plan or advise the licensee of necessary revisions.

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

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

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

589 and the steps taken to prevent recurrence of such accidents or
590 incidents.

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

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

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

598 400.9980 Property and personal affairs of clients.-

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

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

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

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

616 (b) Act as a competent client's payee for social security,

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

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

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

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

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

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

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

679 2. Borrows from or pledges any personal funds of a client,
680 other than the amount agreed to by written contract under s.
681 429.24,
682
683 commits a misdemeanor of the first degree, punishable as
684 provided in s. 775.082 or s. 775.083.

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

691 (7) In the event of the death of a client, a licensee
692 shall return all refunds, funds, and property held in trust to
693 the client's personal representative, if one has been appointed
694 at the time the licensee disburses such funds, or, if not, to
695 the client's spouse or adult next of kin named in a beneficiary
696 designation form provided by the licensee to the client. If the
697 client has no spouse or adult next of kin or such person cannot
698 be located, funds due the client shall be placed in an interest-
699 bearing account and all property held in trust by the licensee
700 shall be safeguarded until such time as the funds and property

701 are disbursed pursuant to the Florida Probate Code. Such funds
702 shall be kept separate from the funds and property of the
703 licensee and other clients of the facility. If the funds of the
704 deceased client are not disbursed pursuant to the Florida
705 Probate Code within 2 years after the client's death, the funds
706 shall be deposited in the Health Care Trust Fund administered by
707 the agency.

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

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

715 400.9981 Rules establishing standards.—

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

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

726 (a) The location of transitional living facilities.

727 (b) The number of qualifications of all personnel,
728 including management, medical, nursing, and other professional

729 personnel and nursing assistants and support personnel having
730 responsibility for any part of the care given to clients. The
731 licensee must have enough qualified professional staff available
732 to carry out and monitor the various professional interventions
733 in accordance with the stated goals and objectives of each
734 comprehensive treatment plan.

735 (c) Requirements for personnel procedures, insurance
736 coverage, reporting procedures, and documentation necessary to
737 implement this part.

738 (d) Services provided to clients of transitional living
739 facilities.

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

750 Section 14. Section 400.9982, Florida Statutes, is created
751 to read:

752 400.9982 Violations; penalties.—

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

757 written notice of the violation as follows:

758 (a) Class "I" violations are defined in s. 408.813. The
759 agency shall issue a citation regardless of correction and
760 impose an administrative fine of \$5,000 for an isolated
761 violation, \$7,500 for a patterned violation, and \$10,000 for a
762 widespread violation. Violations may be identified and a fine
763 must be levied notwithstanding the correction of the deficiency
764 giving rise to the violation.

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

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

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

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

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

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785 living facilities.

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

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

797 Section 17. Section 400.805, Florida Statutes, is
798 repealed.

799 Section 18. Paragraph (b) of subsection (4) of section
800 381.78, Florida Statutes, is amended to read:

801 381.78 Advisory council on brain and spinal cord
802 injuries.—

803 (4) The council shall:

804 (b) Annually appoint a five-member committee composed of
805 one individual who has a brain injury or has a family member
806 with a brain injury, one individual who has a spinal cord injury
807 or has a family member with a spinal cord injury, and three
808 members who shall be chosen from among these representative
809 groups: physicians, other allied health professionals,
810 administrators of brain and spinal cord injury programs, and
811 representatives from support groups with expertise in areas
812 related to the rehabilitation of individuals who have brain or

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813 spinal cord injuries, except that one and only one member of the
814 committee shall be an administrator of a transitional living
815 facility. Membership on the council is not a prerequisite for
816 membership on this committee.

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

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

828 3. Onsite investigations by the committee shall be funded
829 by the Health Care Trust Fund.

830 4. Travel expenses for committee members shall be
831 reimbursed in accordance with s. 112.061.

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

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