

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: CS/CS/SB 1724

INTRODUCER: Health Policy Committee, Children, Families, and Elder Affairs Committee; and Senators Garcia and Grimsley

SUBJECT: Transitional Living Facilities

DATE: April 9, 2013 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Hendon | Hendon | CF | Fav/CS |
| 2. | Looke | Stovall | HP | Fav/CS |
| 3. | | | AHS | |
| 4. | | | AP | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/CS/SB 1724 revises regulations for transitional living facilities. The purpose of these facilities is to provide rehabilitative services in a small residential setting for persons with brain or spinal injuries who need significant care and services to regain their independence. The bill provides for admission criteria, client evaluations, treatment plans, and discharge plans. The bill establishes rights for clients in these facilities, screening requirements for facility employees, and penalties for violations.

The bill also exempts publicly traded pediatric cardiology, perinatology, or anesthesia clinical facilities from the definition of “clinic” and the licensure requirements under part X of ch. 400, F.S.

This bill substantially amends sections 381.745, 381.75, 381.78, 408.802, 408.820, 400.93 and 400.9905 of the Florida Statutes. This bill creates sections 400.9970, 400.9971, 400.9972, 400.9973, 400.9974, 400.9975, 400.9976, 400.9977, 400.9978, 400.9979, 400.998, 400.9981, 400.9982, 400.9983, and 400.9984 of the Florida Statutes. This bill repeals section 400.805 of the Florida Statutes.

II. Present Situation:

Brain and Spinal Cord Injuries

The human spinal cord operates much like a telephone line, relaying messages from the brain to the rest of the body. Spinal cord injuries are caused by bruising, crushing, or tearing of the delicate cord tissue. After an injury, the “messages” sent between the brain and the other parts of the body no longer flow through the damaged area. Many times the functions of the body which are located above the injury point will continue to work properly without impairment. However, the area below the injury point will be impaired to some degree, which will include any combination of the following: motor deficit, sensory deficit, initial breathing difficulty, and/or bowel and bladder dysfunction.¹

The Brain and Spinal Cord Injury Program (BSCIP) is administered by the Florida Department of Health (DOH). The program is funded through a percentage of traffic related fines and surcharges for driving or boating under the influence, fees on temporary license tags, and a percentage of fees from the motorcycle specialty tag.²

The BSCIP is operated through a statewide system of case managers and rehabilitation technicians. Children receive services from the Children’s Medical Services nurse care coordinators and human services counselors. The program also employs regional managers who supervise staff in their region and who oversee locally the operation, development, and evaluation of the program’s services and supports. Services include: case management, acute care, inpatient and outpatient rehabilitation, transitional living, assistive technology, home and vehicle modifications, nursing home transition facilitation; and long-term supports for survivors and families through contractual agreements with community-based agencies.

In addition to providing resource facilitation and funding for the services above, the program funds education, prevention, and research activities. It expands its services by funding a contract with the Brain Injury Association of Florida and the Florida Disabled Outdoors Association. Other services are provided through working relationships with the Florida Centers for Independent Living and the Florida Department of Education, Division of Vocational Rehabilitation.

Section 381.76, F.S., requires an individual to be a legal Florida resident who has sustained a moderate-to-severe traumatic brain or spinal cord injury meeting the state’s definition of such injuries, be referred to the BSCIP Central Registry, be medically stable, and be reasonably expected to achieve reintegration into the community through the services provided to be eligible for services.

The state definition of a brain injury is an insult to the skull, brain or its covering, resulting from external trauma that produces an altered state of consciousness or anatomic, motor, sensory, cognitive or behavioral deficit. The state definition of a spinal cord injury is a lesion to the spinal

¹Florida Spinal Cord Injury Resource Center, *Family and Survivor’s Guide*, available at <http://fscirc.com/what-is-a-sci> (last visited April 3, 2013).

²Florida Department of Health website, available at <http://www.doh.state.fl.us/demo/BrainSC/index.html/> (last visited April 3, 2013).

cord or cauda equina resulting from external trauma with evidence of significant involvement of two of the following-motor deficit, sensory deficit, or bowel and bladder dysfunction.³

Transitional Living Facilities

Transitional living facilities provide specialized health care services, including, but not limited to, rehabilitative services, community reentry training, aids for independent living, and counseling to spinal-cord-injured persons and head-injured persons. There are currently 13 facilities located in the state.⁴ Most of the facilities have between 5 and 10 beds, however, the Florida Institute for Neurologic Rehabilitation in Wauchula is licensed for 127 beds.⁵ Most facilities are located in Central Florida and the Agency for Health Care Administration (AHCA) licenses and is one of the regulators of transitional living facilities.⁶ The current licensure fee is \$4,588, and \$90 per bed fee per biennium.

The AHCA governs the physical plant and fiscal management of these facilities and adopts rules in conjunction with the DOH, which monitors services for persons with traumatic brain and spinal cord injuries. The Department of Children and Families (DCF) investigates allegations of abuse and neglect of children and vulnerable adults.⁷

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

The Brain and Spinal Cord Injury Advisory Council has the right to entry and inspection of transitional living facilities granted under s. 400.805(4), F.S. In addition, designated representatives of AHCA, the local fire marshal, and other agencies have access to the facilities and clients.

According to a news report from Bloomberg, dated January 24, 2012, clients at the Florida Institute for Neurologic Rehabilitation in Wauchula, Florida, were abused, neglected and confined. The news report was based on information from 20 current and former clients and their family members, criminal charging documents, civil complaints and advocates for the disabled.⁸ The report states that three former employees face criminal charges for abusing clients. News

³ S. 381.745, F.S.

⁴ Agency for Health Care Administration, *2013 Bill Analysis and Economic Impact Statement SB 1724*, (on file with the Senate Health Policy Committee).

⁵ Florida Institute for Neurologic Rehab, Inc. found at <http://www.floridahealthfinder.gov/facilitylocator/FacilityProfilePage.aspx?id=28343>, last visited on April 4, 2013.

⁶ See 408, Part II, and ch. 400, Part V, F. S., and ch. 59A-17, F.A.C.

⁷ Id. n. 4.

⁸ Bloomberg, *Abuse of Brain Injured Americans Scandalizes U.S.*, (Jan. 7, 2012) available at <http://www.bloomberg.com/news/2012-07-24/brain-injured-abuse-at-for-profit-center-scandalizes-u-s-.html>, last visited on April 4, 2013.

reports state the facility and three affiliated corporations filed Chapter 11 petitions in U.S. Bankruptcy Court in Tampa.⁹ As of April 4, 2013, the facility remains licensed.

Clinics

Currently, clinics in the State of Florida must be licensed by the Agency for Health Care Administration (AHCA).¹⁰ However, there are many exclusions from this definition of “clinic” under s. 400.9905(a)-(n), F.S. This exclusion also excludes those listed health care facilities from the requirement to obtain a license from the AHCA.¹¹

III. Effect of Proposed Changes:

Section 1 designates ss. 400.9970 through 400.9984, F.S., as part XI of ch. 400, F.S., entitled “Transitional Living Facilities.”

Section 2 creates s. 400.9970, F.S., to state the intent behind the regulation of transitional living facilities. The bill specifies that such facilities shall be licensed by the AHCA to ensure the quality of care for clients, provide the least restrictive placement, and assist clients to achieve a higher level of functioning. The goal of the transitional living program is to enable the clients to return to the community. The bill also states that it is the policy of the state that the use of restraints and seclusion on clients is justified only as an emergency safety measure and that the intent of the legislature is to achieve a reduction of the use of restraints in seclusion in programs and facilities that serve persons with brain and spinal cord injuries.

Section 3 creates s. 400.9971, F.S., to define terms including, but not limited to:

- “Chemical restraint,” meaning a pharmacologic drug which physically limits, restricts, or deprives an individual of movement or mobility, is used for the client protection or safety, and is not required for the treatment of medical conditions or symptoms;
- “Physical restraint,” meaning any manual method or physical or mechanical device, material, or equipment attached or adjacent to the individual’s body so the client cannot easily remove the restraint and restricts freedom of movement or normal access to one’s body; and
- “Seclusion” meaning the physical segregation of a person in any fashion or the involuntary isolation of a person in a room or area from which the person is prevented from leaving. The prevention may be by physical barrier or by a staff member who is acting in a manner, or who is physically situated, so as to prevent the person from leaving the room or area. For purposes of this chapter, the term does not mean isolation due to a person’s medical condition or symptoms; and
- “Transitional living facility,” the definition of which is moved from s. 381.475, F.S., and clarified so that a currently-licensed health care provider that treats brain and spinal cord injuries within the scope of its license need not be licensed as a transitional living facility.

⁹ Bloomberg, *Florida Brain-Injury Facility Files for Bankruptcy*, (Jan. 5, 2013) available at <http://www.bloomberg.com/news/2013-01-05/florida-brain-injury-facility-files-for-bankruptcy.html>, last visited on April 4, 2013.

¹⁰ s. 400.991, F.S.

¹¹ s. 400.9905(4)(a)-(n), F.S.

Section 4 creates s. 400.9972, F.S., to provide the licensure requirements and application fee for transitional living facilities. The bill codifies the current license fee of \$4,588 and the per bed fee of \$90.¹² The bill requires certain information from the applicant, including:

- The facility's location;
- Proof that local zoning requirements have been met;
- Proof of liability insurance;
- Documentation of a satisfactory fire safety inspection; and
- Documentation of satisfactory sanitation inspection by the county health department.

The bill also requires facilities to be accredited by an accrediting organization specializing in rehabilitation facilities which may be used by the AHCA in lieu of a licensure inspection.

Section 5 creates s. 400.9973, F.S., to set standards transitional living facilities must meet for client admission, transfer, and discharge from the facility. The facility is required to have admission, transfer, and discharge policies and procedures in writing.

Admission Criteria

Clients may only be admitted to the facility:

- Upon prescription by a licensed physician and they must remain under the care of the physician for the duration of their stay in the facility;
- If they have a brain and spinal cord injury¹³ with evidence of the significant involvement of two of the listed impairments; and
- Upon submission of documentation indicating the person is free of apparent signs and symptoms of communicable disease.

Clients may be admitted for an evaluation period of up to 90 days if their medical condition and diagnosis does not positively identify a cause of their disability.

Clients may not be admitted to the facility if:

- Their primary diagnosis is a mental illness or an intellectual or developmental disability;
- They present significant risk of infection to other clients or personnel;
- They are a danger to themselves or others as determined by a physician or mental health practitioner;
- They require mental health treatment;
- They require nursing supervision on a 24-hour basis; or
- They are bedridden.

Client Plans and Evaluation

At or before admission, the facility must develop a "discharge plan" that states the intended placement after the client has received rehabilitative services. The goal of the placement is to return the client to independent living in the community. Discharge plans must be updated at least monthly.

¹² Section 400.805(2)(b), F.S., authorizes a license fee of \$4,000 and a per bed fee of \$75.50. Pursuant to s. 408.805(2), F.S., AHCA can increase the fees each year by up to the increase in the consumer price index for that year. The current fee is \$4,588 and \$90 per bed and bill uses these amounts.

¹³ as defined in s. 381.745(2), F.S.

The medical or nursing director must complete an initial evaluation of the client within 72 hours of admission and develop and implement an “initial” comprehensive treatment plan within 4 days of admission. The bill contains requirements for the treatment plans.

A facility must discharge the client as soon as practicable when the specialized services of the facility are no longer required, the client is not making measurable progress, or the facility is no longer the most appropriate treatment option. Facilities must provide at least 30 days notice to clients before involuntarily transferring or discharging them unless the client voluntarily terminates their residency.

Section 6 creates s. 400.9974, F.S., to provide the requirements for clients’ comprehensive treatment plans and services. The facility must develop a comprehensive treatment plan for each client within 33 days of admission. An interdisciplinary team, including the client, as appropriate, must develop the plan. Each plan must be updated at least monthly and include the following:

- Physician’s orders, diagnosis, medical history, physical exams and rehab needs;
- A nursing evaluation with physician orders for immediate care completed at admission;
- A comprehensive assessment of the client’s functional status and the services needed to become independent and return to the community; and
- Steps necessary for the client to achieve transition to the community.

The facility must have qualified staff to carry out and monitor rehabilitation services in accordance with the stated goals of the treatment plan.

Section 7 creates s. 400.9975, F.S., to provide for certain rights of each client. Specifically, the facility must ensure that each client:

- Lives in a safe environment;
- Is treated with respect, recognition of personal dignity, and privacy;
- Retains use of his or her own clothes and personal property;
- Has unrestricted private communications, which includes mail, telephone, and visitors;
- Has the opportunity to participate in community services and activities;
- Has the opportunity to manage his or her own financial affairs, unless the client or the client’s representative authorizes the administrator of the facility to provide safekeeping for funds;
- Has reasonable opportunity for regular exercise and to be outdoors several times a week;
- Has the opportunity to exercise their civil and religious liberties;
- Has adequate access to appropriate health care services;
- Has the ability to present grievances and recommend changes in policies, procedures, and services;
- Promotes participation of client’s representative in the process of treatment for the client;
- Answers communications from a client’s family and friends promptly;
- Is able to have visits by individuals with a relationship to the client at any reasonable hour without prior notice;
- Is allowed leave from the facility to visit or to take trips or vacations; and

- That the client's representative is promptly notified of any significant incidents or changes in condition.

The bill requires the administrator to post a written notice of provider responsibilities in a prominent place in the facility that includes the statewide toll-free telephone number for reporting complaints to the AHCA and the statewide toll-free number of Disability Rights of Florida. The facility must ensure the client has access to a telephone to call the AHCA, the central abuse hotline, Disabilities Rights of Florida, or the local advocacy council. The facility cannot take retaliatory action against a client for filing a complaint or grievance. These are similar to protections provided to residents of nursing homes and assisted living facilities.

Section 8 creates s. 400.9976, F.S., to require the facility to record the client's medication administration, including self-administration, and each dose of medication. The medication must be administered in compliance with the physician's orders. The interdisciplinary team that develops the client's treatment plan must determine whether a client is capable of self-administration of medications. Drug administration errors and adverse drug reaction must be recorded and reported immediately to the physician.

Section 9 creates s. 400.9977, F.S., to state that the facility is responsible for developing and implementing policies and procedures for screening and training employees, protection of clients, and for the prevention, identification, investigation, and reporting of abuse, neglect, mistreatment, and exploitation. This includes the facility identifying clients whose history renders the client a risk for abusing other clients.

The facility must implement procedures to:

- Screen potential employees for a history of abuse, neglect, or mistreatment of clients;
- Train employees through orientation and on-going sessions on abuse prohibition practices;
- Have sufficient numbers of staff to meet the needs of the clients and assure staff has knowledge of each individual client's care needs;
- Provide adequate supervision to identify inappropriate behaviors, such as rough handling or ignoring clients while giving care
- Provide clients, families, and staff information on how and to whom they may report concerns, incidents and grievances without fear of retribution;
- Identify, correct, and intervene in situations where abuse, neglect, mistreatment, or exploitation is likely to occur, including conditions in the physical environment that make abuse and/or neglect more likely to occur, such as secluded areas;
- Identify events, such as suspicious bruising of clients, that may constitute abuse to determine the direction of the investigation;
- Investigate different types of incidents and identify staff members responsible for the initial reporting, and reporting of results to the proper authorities;
- Protect clients from harm during an investigation;
- Analyze the occurrences of abuse, exploitation, mistreatment, or neglect and determine what changes are needed to policies and procedures to prevent further occurrences; and
- Report all alleged violations and all substantiated incidents as required under chs. 39 and 415, F.S., to the appropriate licensing authorities.

Section 10 creates s. 400.9978, F.S., to require each facility to provide a therapeutic milieu that supports a culture of individual empowerment and responsibility with the health and safety of the client as the primary concern at all times. To require that physical and chemical restraints be ordered for clients before they are used by the facility. The bill also requires that the order must be documented by the client's physician and the client or client's representative must be informed of the facility's physical and chemical restraint policy at the time of the client's admission.

Chemical restraint is limited to the dosage of medications prescribed by the client's physician. Clients receiving medications that can serve as a restraint must be evaluated by their physician at least monthly to assess:

- Continued use of medication;
- Level of the medication in client's blood; and
- Adjustments in the prescription.

A physician may order medications, limited to a 24-hour period, for emergency treatment when a client exhibits symptoms indicating an immediate risk of injury or death to self or others.

The facility must ensure clients are free from unnecessary drugs and physical restraints. Physical restraints and seclusion may only be used in accordance with the facility's written policies and state law. All interventions to manage dangerous client behaviors must be administered with sufficient safeguards and supervision. Also, The facility must also notify the parent or guardian of a client within 24 hours each time restraint or seclusion is used.

The AHCA may adopt rules relating to the use of restraints, seclusion, and emergency treatment orders for psychotropic medications.

Section 11 creates s. 400.9979, F.S., to require all facility personnel to complete a Level 2 background screening.¹⁴ The facility must maintain personnel records which contain the staff's background screening, job description, training requirements, compliance documentation, and a copy of all licenses or certification held by staff who perform services for which licensure or certification is required. The record must also include a copy of all job performance evaluations. In addition, the bill requires the facility to:

- Implement infection control policies and procedures.
- Maintain liability insurance, as defined by s. 624.605, F.S., at all times.
- Designate one person as administrator who is responsible for the overall management of the facility.
- Designate in writing a person responsible for the facility when the administrator is absent for 24 hours.
- Obtain approval of the comprehensive emergency management plan from the local emergency management agency.
- Maintain written records in a form and system in accordance with standard medical and business practices and be available for submission to the AHCA upon request. The records must include:

¹⁴ As required in s 408.809(1)(e), F.S., and pursuant to ch. 435, F.S.

- A daily census record;
- A report of all accident or unusual incidents involving clients or a staff member that caused or had the potential to cause injury or harm to any person or property within the facility;
- Agreements with third party providers;
- Agreements with consultants employed by the facility; and
- Documentation of each consultant's visits and required written, dated reports.

Section 12 creates s. 400.9980, F.S., to allow clients the option of using their own personal belongings and choosing a roommate whenever possible. The admission of a client to a facility and his or her presence therein shall not confer on a licensee, administrator, employee, or representative any authority to manage, use, or dispose of any property of the client. The licensee, administrator, employee, or representative may not act as the client's guardian or trustee for any of the client's property.

The licensee, administrator, employee, or representative may act as a competent client's payee for social security or other benefits or be granted power of attorney for a client if the licensee has filed a surety bond with the AHCA in an amount equal to twice the average monthly income of the client.

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

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

The bill mandates that any person who intentionally withholds the personal property of the a client or who borrows from any client's personal funds commits a crime punishable as a misdemeanor of the first degree. Also, any licensee, administrator, or staff, or representative thereof, who is granted power of attorney for any client of the facility and who misuses or misappropriates funds obtained through this power commits a felony of the third degree.

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

The bill allows the AHCA, by rule, to clarify terms and specify procedures and documentation necessary to administer the provisions relating to the proper management of clients' funds and personal property and the execution of surety bonds.

Section 13 creates s. 400.9981, F.S., to authorize the AHCA to publish and enforce rules to include criteria to ensure reasonable and consistent quality of care and client safety. The AHCA may adopt and enforce rules related to:

- Physical plant of transitional living facilities.
- Qualifications of all personnel having responsibility for any part of the client’s care and services.
- Requirements for personnel procedures and reporting procedures.
- Services provided to clients.
- The preparation and annual update of a comprehensive emergency management plan.

Section 14 creates s. 400.9982, F.S., which establishes penalties for violations. Current law requires the AHCA to determine if violations in health care related facilities are isolated, patterned or widespread by the AHCA.¹⁵ The penalties in the bill take into account the frequency of the problems within the facility. Section 408.813, F.S., also separates violations into classes, 1 through 4, based on severity. Class 1 violations put clients in imminent danger, Class 2 violations directly threaten the safety of clients, Class 3 violations indirectly threaten the safety of clients, and Class 4 violations are primarily for paperwork violations that would not harm clients. The classifications must be included on the written notice of the violation provided to the facility.

The fines for violations are to be levied at the following amounts:

| Class of Violation/Correction | Isolated | Patterned | Widespread |
|--------------------------------------|-----------------|------------------|-------------------|
| 1 - regardless of correction | \$5,000 | \$7,500 | \$10,000 |
| 2 - regardless of correction | \$1,000 | \$2,500 | \$5,000 |
| 3 – if uncorrected | \$500 | \$750 | \$1,000 |
| | Range | | |
| 4 – if uncorrected | \$100 | | \$200 |

Section 15 creates s. 400.9983, F.S., to establish the right for the AHCA to use receivership proceedings established in s. 429.22, F.S. That section allows the AHCA to petition a court for the appointment of a receiver when the following conditions exist:

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

Section 429.22, F.S., states that petitions for receivership shall take priority over other court business. A hearing shall be conducted within 5 days of the petition filing and the AHCA notifies the facility administrator or owner of the petition and sets the date of the hearing. The court may grant the petition only upon finding that the health, safety, or welfare of the client is threatened if certain conditions exist.

¹⁵ s. 408.813(2), F.S.

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

Section 16 creates s. 400.9984, F.S., to require the AHCA, the DOH, the Agency for Persons with Disabilities, and the DCF to develop electronic systems to ensure relevant data pertaining to the regulation of transitional living facilities and clients is communicated timely among all agencies for the protection of clients. This system must include a brain and spinal cord injury registry and a client abuse registry. A database containing information on facilities will assist the various state agencies that are involved in regulating the facilities and the treatment of their clients.

Section 17 repeals s. 400.805, F.S. This section of law contains the current regulations for transitional living facilities. These provisions are replaced by ss. 400.997-9984, F.S., created in the bill.

Section 18 amends s. 381.745, F.S., to conform to changes in the definition of a transitional living facility.

Section 19 amends s. 381.75, F.S., to eliminate a reference to the responsibility of the DOH to develop rules with the AHCA for the regulation of transitional living facilities. Provisions in this section are moved and revised in the newly-created ss. 400.997-400.9984, F.S.

Section 20 amends s. 381.78, F.S., relating to the Brain and Spinal Cord Injury Advisory Council's appointment of a committee to regulate transitional living facilities. These duties are duplicative of the regulation by AHCA under the bill and, as a result, are removed.

Sections 21 – 23 amend ss. 408.802, 408.820, and 400.93, F.S., to make conforming changes.

Section 24 amends s. 400.9905, F.S., to create an exemption from the definition of "clinic" and the licensure requirements under part X of ch. 400, F.S., for publicly traded pediatric cardiology, perinatology, or anesthesia clinical facilities.

Section 25 provides for an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 6, Art. III of the State constitution, requires every law to embrace only one subject and matter properly connected therewith, and the subject is to be briefly expressed in the title. Section 23 of the bill creates an exemption from the definition of “clinic,” and the licensure requirements under part X of ch. 400, F.S., for publicly traded pediatric cardiology, perinatology, or anesthesia clinical facilities. This exemption does not relate to “Transitional Living Facilities” and, as such, section 23 may not be germane to the title of the bill.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Transitional living facilities may incur indeterminate increased costs based on the increased requirements under CS/CS/SB 1724.

C. Government Sector Impact:

The AHCA currently regulates the 13 transitional living facilities in the state and is not expected to incur increased costs of regulation. The AHCA will see increased costs however to develop a database to hold information on facilities that would be shared with other state agencies as required under the bill. The AHCA estimates the one-time costs for developing the database to be \$164,060 and \$64,020 for each subsequent year to maintain the database.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁶ Supra n. 4.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Health Policy on April 9, 2013:

The CS/CS:

- Adds intent concerning the use of restraints and seclusion on clients;
- Adds a definition of seclusion
- Deletes the definition of licensee;
- Revising the licensee’s responsibilities to ensure the client has the opportunity to engage in certain activities, as opposed to requiring the client to engage in those activities;
- Requires facilities to provide a therapeutic milieu that supports individual empowerment and responsibility;
- Requires that physical restraints and seclusion only be used in accordance with the facility’s written policies and state law;
- Requires facilities to notify the parent or guardian of a client within 24 hours each time restraint or seclusion is used;
- Allows the AHCA to adopt rules related to duration, staff training, client observation and documentation pertaining to restraints and seclusion;
- Restricts the AHCA from imposing a fine for a corrected class IV deficiency.
- Creates an exemption from the definition of “clinic” and the licensure requirements under part X of ch. 400, F.S., for publicly traded pediatric cardiology, perinatology, or anesthesia clinical facilities; and
- Makes other technical changes.

CS by Children, Families, and Elder Affairs on April 1, 2013:

- Provides that other health care providers serving persons with brain and spinal cord injuries under their existing license, such as hospitals and skilled nursing rehabilitation programs, need not obtain a license as a transitional living facility.
- Requires client discharge plans that specify the rehabilitation goals must be developed before or at admission.
- Requires accreditation as a condition of licensure.
- Authorizes clients to stay beyond 2 years as long as they are making measurable progress to transition to the community.
- Allows a client whose diagnosis does not positively identify the cause of his or her condition to be admitted to the facility for up to 90 days for evaluation.
- Prohibits the admission of clients who have an intellectual or developmental disability as the primary diagnosis.
- Clarifies the requirements and timeframes for the client discharge plan (prior to or at admission), initial evaluation (within 72 hours of admission), initial comprehensive treatment plan (within 4 days of admission), and comprehensive treatment plan (within 30 days of admission).
- Provides that facilities must give the client 30 days notice prior to an involuntary discharge or transfer from the facility.

- Requires facilities to establish a system for investigating, tracking, and responding to complaints along with an appeals process.
- Amends s. 381.75, F.S., to delete current regulations that are replaced by newly-created ss. 400.997-9984, F.S.
- Amends s. 381.78, F.S., to eliminate the authority of the Brain and Spinal Cord Injury Advisory Council to appointment a committee to regulate transitional living facilities.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
