

By Senator Garcia

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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 treatment 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

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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 a licensee  
43 and 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 access the provisions  
56 of s. 429.22, F.S., regarding receivership  
57 proceedings; creating s. 400.9984, F.S.; requiring the  
58 Agency for Health Care Administration, the Department

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59 of Health, the Agency for Persons with Disabilities,  
60 and the Department of Children and Families to develop  
61 an electronic database for certain purposes; repealing  
62 s. 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 department to ensure  
78 quality 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 a  
85 disability to achieve a higher level of independent functioning  
86 and to enable that person to reenter the community.

87 Section 3. Section 400.9971, Florida Statutes, is created

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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 and 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 or  
104 physical or mechanical device, material, or equipment attached  
105 or adjacent to the individual's body so that he or she cannot  
106 easily remove the restraint and which restricts freedom of  
107 movement or normal access to one's body, including, but not  
108 limited to, a half-bed rail, a full-bed rail, a geriatric chair,  
109 and a posey restraint. The term includes any device that was not  
110 specifically manufactured as a restraint but that has been  
111 altered, arranged, or otherwise used for this purpose. The term  
112 does not include bandage material used for the purpose of  
113 binding a wound or injury.

114 (7) "Transitional living facility" means a site where  
115 specialized health care services are provided, including, but  
116 not limited to, rehabilitative services, community reentry

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117 training, aids for independent living, and counseling to brain-  
118 injured persons and spinal-cord-injured persons. The term does  
119 not include a hospital licensed under chapter 395 or any  
120 federally operated hospital or facility.

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

123 400.9972 License required; fee; application.-

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

130 (2) In accordance with this part, an applicant or a  
131 licensee shall pay a fee for each license application submitted  
132 under this part. The license fee shall consist of a \$4,000  
133 license fee and a \$90 per-bed fee per biennium and shall conform  
134 to the annual adjustment authorized in s. 408.805.

135 (3) Each applicant for licensure must provide:

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

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

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

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

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

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

150       400.9973 Client admission, transfer, and discharge.-

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

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

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

162           (a) Motor deficit.

163           (b) Sensory deficit.

164           (c) Bowel and bladder dysfunction.

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

168       (4) A client admitted to a transitional living facility  
169 must be admitted upon prescription by a licensed physician and  
170 must remain under the care of a licensed physician for the  
171 duration of the client's stay in the facility.

172       (5) A transitional living facility may not admit a client  
173 whose primary admitting diagnosis is mental illness.

174       (6) A person may not be admitted to a transitional living

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175 facility if the person:

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

180 (b) Is a danger to self or others as determined by a  
181 physician, or mental health practitioner licensed under chapter  
182 490 or chapter 491, unless the facility provides adequate  
183 staffing and support to ensure patient safety;

184 (c) Is bedridden; or

185 (d) Requires 24-hour nursing supervision.

186 (7) If the client meets the admission criteria, the medical  
187 or nursing director of the facility must implement a  
188 preadmission treatment plan that delineates services to be  
189 provided and appropriate sources for such services.

190 (8) Each comprehensive treatment plan and discharge plan  
191 must be reviewed and updated as necessary, but at least monthly.  
192 A transitional living facility shall discharge as quickly as  
193 possible a resident who no longer requires any of the  
194 specialized services described in s. 400.9971(6) or is not  
195 making measurable progress in accordance with that individual's  
196 comprehensive treatment plan.

197 (9) Each transitional living facility shall provide at  
198 least 30 days' notice to clients of transfer or discharge plans,  
199 including the location of an acceptable transfer location if the  
200 client is unable to live independently. This requirement does  
201 not apply if a client voluntarily terminates residency.

202 (10) Each transitional living facility shall create a  
203 discharge plan for each client within 15 days after admission.

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204 The discharge plan must identify the intended discharge site and  
205 possible alternative discharge sites. For each discharge site,  
206 the discharge plan must identify the skills, behaviors, and  
207 other conditions that the client must achieve to be appropriate  
208 for discharge. A transitional living facility shall discharge a  
209 client as soon as practicable if the transitional living  
210 facility is no longer the most appropriate, least restrictive  
211 treatment option.

212 (11) A client may not reside in a transitional living  
213 facility for a period of more than 2 years. An exception may be  
214 made if a referral is made to Disability Rights Florida at least  
215 21 months after admission and the client or, if appropriate, the  
216 client's guardian requests that the client continue to receive  
217 treatment at the transitional living facility. However, the  
218 extension may not exceed a 1 year.

219 Section 6. Section 400.9974, Florida Statutes, is created  
220 to read:

221 400.9974 Individual treatment plans; client services.—

222 (1) An interdisciplinary team, consisting of the case  
223 manager, program director, nurse, behavior specialist, and  
224 appropriate therapists, must develop an individual treatment  
225 plan for each client. The client and his or her representative  
226 must also be included in developing the treatment plan.

227 (2) The individual treatment plan must include:

228 (a) The physician's orders and the client's diagnosis,  
229 medical history, physical examination, and rehabilitative or  
230 restorative needs.

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



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233       (c) A comprehensive, accurate, reproducible, and  
234 standardized assessment of the client's functional capability  
235 and the treatments designed to achieve skills, behaviors, and  
236 other conditions to return to the community, and shall specify  
237 measurable goals.

238       (d) Steps necessary for the client to achieve transition to  
239 the community and estimated length of time to achieve the goals.

240       (3) The individual treatment plan must be completed before  
241 admission to the facility and be reevaluated and updated at  
242 least every 90 days thereafter. A reevaluation of the plan must  
243 also occur if the client fails to meet projected improvements in  
244 the plan or a significant change in the client's condition  
245 occurs. The client, the client's guardian or responsible party,  
246 and any other person approved by the client, and members of the  
247 comprehensive treatment team are allowed to attend and  
248 participate in formulating updates to the discharge and  
249 treatment plans. At each quarterly meeting, the client or, if  
250 appropriate, the client's guardian, shall consent to the  
251 continued treatment at the transitional living facility. If such  
252 consent is not given, the transitional living facility shall  
253 discharge the client as soon as practicable.

254       (4) Each client must receive the professional program  
255 services needed to implement the client's individual program  
256 plan.

257       (5) The licensee must employ available qualified  
258 professional staff to carry out and monitor the various  
259 professional interventions in accordance with the stated goals  
260 and objectives of every individual program plan.

261       (6) Each client must receive a continuous treatment program

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262 that includes appropriate, consistent implementation of a  
263 program of specialized and general training, treatment, health  
264 services, and related services that is directed toward:

265 (a) The acquisition of the behaviors necessary for the  
266 client to function with as much self-determination and  
267 independence as possible;

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

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

272 Section 7. Section 400.9975, Florida Statutes, is created  
273 to read:

274 400.9975 Licensee responsibilities.—

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

276 (a) Lives in a safe environment free from abuse, neglect,  
277 and exploitation.

278 (b) Is treated with consideration and respect and with due  
279 recognition of personal dignity, individuality, and the need for  
280 privacy.

281 (c) Retains and uses his or her own clothes and other  
282 personal property in his or her immediate living quarters, so as  
283 to maintain individuality and personal dignity, except when the  
284 licensee can demonstrate that such retention and use would be  
285 unsafe, impractical, or an infringement upon the rights of other  
286 clients.

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

290 Upon request, the licensee shall make provisions to modify

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291 visiting hours for caregivers and guests. The facility shall  
292 restrict communication in accordance with any court order or  
293 written instruction of a guardian. Any restriction on a client's  
294 communication for therapeutic reasons shall be reviewed no less  
295 often than weekly and the restrictions shall be removed as soon  
296 as it is no longer clinically indicated. The basis for the  
297 restrictions shall be explained to the client and, if  
298 applicable, the client's representative. The client shall  
299 nonetheless retain the right to call the abuse hotline, the  
300 agency, and Disability Rights Florida at any and all times.

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

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

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

311 (h) Exercises civil and religious liberties, including the  
312 right to independent personal decisions. No religious belief or  
313 practice, including attendance at religious services, shall be  
314 imposed upon any client.

315 (i) Has access to adequate and appropriate health care as  
316 appropriate for the client and consistent with established and  
317 recognized standards within the community.

318 (j) Has the ability to present grievances and recommend  
319 changes in policies, procedures, and services to the staff of

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320 the licensee, governing officials, or any other person without  
321 restraint, interference, coercion, discrimination, or reprisal.  
322 Each licensee shall establish a grievance procedure to  
323 facilitate a client's exercise of this right. This right  
324 includes access to Disability Rights Florida and other advocates  
325 and the right to be a member of, be active in, and associate  
326 with advocacy or special interest groups.

327 (2) The licensee shall:

328 (a) Promote participation of each client's representative  
329 in the process of providing treatment to the client unless the  
330 representative's participation is unobtainable or inappropriate.

331 (b) Answer communications from each client's family and  
332 friends promptly and appropriately.

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

339 (d) Promote leave from the facility for visits, trips, or  
340 vacations.

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

345 (3) The administrator of a facility shall ensure that a  
346 written notice of licensee responsibilities is posted in a  
347 prominent place in each building where clients reside and read  
348 or explained to clients who cannot read. This notice shall

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349 include the statewide toll-free telephone number for reporting  
350 complaints to the agency, must be provided to clients in a  
351 manner that is clearly legible, and must include the words: "To  
352 report a complaint regarding the services you receive, please  
353 call toll-free ...[telephone number]...; the Disability Rights  
354 Florida (telephone number); and the statewide toll-free  
355 telephone number for the central abuse hotline must be provided  
356 to clients in a manner that is clearly legible and must include  
357 the words: "To report abuse, neglect or exploitation, please  
358 call toll-free ...[telephone number]..." where complaints may be  
359 lodged. The licensee must ensure a client's access to a  
360 telephone to call the agency, central abuse hotline, Disability  
361 Rights Florida.

362 (4) No licensee or employee of a facility may serve notice  
363 upon a client to leave the premises or take any other  
364 retaliatory action against any person who:

365 (a) Files an internal or external complaint or grievance  
366 regarding the facility.

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

369 (5) Before or at the time of admission, the client and the  
370 client's representative shall be provided with a copy of the  
371 client's contract and a copy of the licensee's responsibilities  
372 as provided in subsection (1).

373 (6) The licensee must develop and implement policies and  
374 procedures governing the release of any client information,  
375 including consent necessary from the client or the client's  
376 representative.

377 Section 8. Section 400.9976, Florida Statutes, is created

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378 to read:

379 400.9976 Medication practices.-

380 (1) An individual medication administration record must be  
381 maintained for each client. Each dose of medication, including a  
382 self administered dose, shall be properly recorded in the  
383 client's record. Each patient who is self administering  
384 medication shall be given a pill organizer. Medication must be  
385 placed in the pill organizer by a nurse. A nurse shall document  
386 the date and time medication is placed into each patient's pill  
387 organizer. All medications must be administered in compliance  
388 with the physician's orders.

389 (2) If the interdisciplinary team determines that self  
390 administration of medications is an appropriate objective, and  
391 if the physician does not specify otherwise, a client must be  
392 taught to self administer his or her medication without a staff  
393 person. This includes all forms of administration, including  
394 orally, via injection, and via suppository. The client's  
395 physician must be informed of the interdisciplinary team's  
396 decision that self administration of medications is an objective  
397 for the client. A client may not self administer medication  
398 until he or she demonstrates the competency to take the correct  
399 medication in the correct dosage at the correct time, knows how  
400 to respond to missed doses, and knows who to contact with  
401 questions.

402 (3) Medication administration discrepancies and adverse  
403 drug reactions must be recorded and reported immediately to a  
404 physician.

405 Section 9. Section 400.9977, Florida Statutes, is created  
406 to read:

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407       400.9977 Protection from abuse, neglect, mistreatment, and  
408 exploitation.—The licensee must develop and implement policies  
409 and procedures for the screening and training of employees, the  
410 protection of clients, and the prevention, identification,  
411 investigation, and reporting of abuse, neglect, and  
412 exploitation. This includes the licensee's identification of  
413 clients whose personal histories render them at risk for abusing  
414 other clients, development of intervention strategies to prevent  
415 occurrences, monitoring for changes that would trigger abusive  
416 behavior, and reassessment of the interventions on a regular  
417 basis. A licensee shall implement procedures to:

418       (1) Screen potential employees for a history of abuse,  
419 neglect, or mistreatment of clients. The screening shall include  
420 an attempt to obtain information from previous employers and  
421 current employers and verification with the appropriate  
422 licensing boards and registries.

423       (2) Train employees, through orientation and ongoing  
424 sessions, on issues related to abuse prohibition practices,  
425 including identification of abuse, neglect, mistreatment, and  
426 exploitation, appropriate interventions to deal with aggressive  
427 or catastrophic reactions of clients, the process to report  
428 allegations without fear of reprisal, and recognition of signs  
429 of frustration and stress that may lead to abuse.

430       (3) Provide clients, families, and staff with information  
431 on how and to whom they may report concerns, incidents, and  
432 grievances without the fear of retribution and provide feedback  
433 regarding the concerns that have been expressed. A licensee must  
434 identify, correct, and intervene in situations in which abuse,  
435 neglect, mistreatment, or exploitation is likely to occur,

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436 including:

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

440 (b) Providing sufficient staff on each shift to meet the  
441 needs of the clients, and ensuring that the staff assigned have  
442 knowledge of the individual clients' care needs. The licensee  
443 shall identify inappropriate behaviors of its staff, such as  
444 using derogatory language, rough handling, ignoring clients  
445 while giving care, and directing clients who need toileting  
446 assistance to urinate or defecate in their beds.

447 (c) Assessing, planning care for, and monitoring clients  
448 with needs and behaviors that might lead to conflict or neglect,  
449 such as clients with a history of aggressive behaviors, clients  
450 who have behaviors such as entering other clients' rooms,  
451 clients with self-injurious behaviors, clients with  
452 communication disorders, and clients who require heavy nursing  
453 care or are totally dependent on staff.

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

457 (5) Investigate different types of incidents, identify the  
458 staff member responsible for the initial reporting, investigate  
459 alleged violations, and report results to the proper  
460 authorities. The licensee must analyze the occurrences to  
461 determine what changes are needed, if any, to policies and  
462 procedures to prevent further occurrences and to take all  
463 necessary corrective actions depending on the results of the  
464 investigation.



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

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

471 Section 10. Section 400.9978, Florida Statutes, is created  
472 to read:

473 400.9978 Restraints and seclusion; client safety.—

474 (1) The use of physical restraints must be ordered and  
475 documented by the a physician and must be consistent with  
476 policies and procedures adopted by the facility. The client or,  
477 if applicable, the client's representative must be informed of  
478 the facility's physical restraint policies and procedures at the  
479 time of admission.

480 (2) The use of chemical restraints is limited to prescribed  
481 dosages of medications as ordered by a physician, must be  
482 consistent with the client's diagnosis and the policies and  
483 procedures adopted by the facility. The client or, if  
484 applicable, the client's representative, must be informed of the  
485 facility's chemical restraint policies and procedures at the  
486 time of admission.

487 (3) Based on a physician's assessment, when a patient  
488 exhibits symptoms that present an immediate risk of injury or  
489 death to self or others, a physician may issue an emergency  
490 treatment order to immediately administer rapid response  
491 psychotropic medications or other chemical restraints. Each  
492 emergency treatment order must be documented and maintained in  
493 the patient's record.

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

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

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

503 (a) The continued need for the medication.

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

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

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

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

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

518 Section 11. Section 400.9979, Florida Statutes, is created  
519 to read:

520 400.9979 Background screening; administration and  
521 management.—

522 (1) The agency shall require level 2 background screening

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523 for personnel as required in s. 408.809(1)(e) pursuant to  
524 chapter 435 and s. 408.809.

525 (2) The licensee shall maintain personnel records for each  
526 staff member that contain, at a minimum, documentation of  
527 background screening, if applicable, a job description,  
528 documentation of compliance with all training requirements of  
529 this part or applicable rule, the employment application,  
530 references, a copy of all job performance evaluations, and, for  
531 each staff member who performs services for which licensure or  
532 certification is required, a copy of all licenses or  
533 certification held by the staff member.

534 (3) The licensee must:

535 (a) Develop and implement infection control policies and  
536 procedures and include such policies and procedures in the  
537 licensee's policy manual.

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

539 (c) Designate one person as an administrator who is  
540 responsible and accountable for the overall management of the  
541 facility.

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

545 (e) Designate in writing a program director who is  
546 responsible for supervising the therapeutic and behavioral  
547 staff, determining the levels of supervision, and room placement  
548 for each client.

549 (f) Designate in writing a person to be responsible when  
550 the program director is absent from the facility for more than  
551 24 hours.

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552 (g) Obtain approval of the comprehensive emergency  
553 management plan, pursuant to s. 400.9981(2) (e), from the local  
554 emergency management agency. Pending the approval of the plan,  
555 the local emergency management agency shall ensure that the  
556 following agencies, at a minimum, are given the opportunity to  
557 review the plan: the Department of Health, the Agency for Health  
558 Care Administration, and the Division of Emergency Management.  
559 Appropriate volunteer organizations must also be given the  
560 opportunity to review the plan. The local emergency management  
561 agency shall complete its review within 60 days and either  
562 approve the plan or advise the licensee of necessary revisions.

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

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

570 2. A record of all accidents or unusual incidents involving  
571 any client or staff member that caused, or had the potential to  
572 cause, injury or harm to any person or property within the  
573 facility. Such records must contain a clear description of each  
574 accident or incident, the names of the persons involved, a  
575 description of all medical or other services provided to these  
576 persons specifying who provided such services, and the steps  
577 taken to prevent recurrence of such accidents or incidents.

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

579 4. A copy of current agreements with each consultant  
580 employed by the licensee and documentation of each consultant's

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581 visits and required written, dated reports.

582 Section 12. Section 400.9980, Florida Statutes, is created  
583 to read:

584 400.9980 Property and personal affairs of clients.-

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

590 (2) The admission of a client to a facility and his or her  
591 presence therein shall not confer on a licensee, administrator,  
592 employee, or representative thereof any authority to manage,  
593 use, or dispose of any property of the client, nor shall such  
594 admission or presence confer on any of such persons any  
595 authority or responsibility for the personal affairs of the  
596 client except that which may be necessary for the safe  
597 management of the facility or for the safety of the client.

598 (3) A licensee, administrator, employee, or representative  
599 thereof may:

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

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

608 (c) Act as the power of attorney for a client if the  
609 licensee has filed a surety bond with the agency in an amount

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610 equal to twice the average monthly income of the client, plus  
611 the value of any client's property under the control of the  
612 attorney in fact.

613  
614 The bond under paragraph (b) or paragraph (c) shall be executed  
615 by the licensee as principal and a licensed surety company. The  
616 bond shall be conditioned upon the faithful compliance of the  
617 licensee with the requirements of licensure and shall be payable  
618 to the agency for the benefit of any client who suffers a  
619 financial loss as a result of the misuse or misappropriation of  
620 funds held pursuant to this subsection. Any surety company that  
621 cancels or does not renew the bond of any licensee shall notify  
622 the agency in writing not less than 30 days in advance of such  
623 action, giving the reason for the cancellation or nonrenewal.  
624 Any licensee, administrator, employee, or representative thereof  
625 who is granted power of attorney for any client of the facility  
626 shall, on a monthly basis, notify the client in writing of any  
627 transaction made on behalf of the client pursuant to this  
628 subsection, and a copy of such notification given to the client  
629 shall be retained in each client's file and available for agency  
630 inspection.

631 (4) A licensee, upon mutual consent with the client, shall  
632 provide for the safekeeping in the facility of the client's  
633 personal effects of a value not in excess of \$1,000 and the  
634 client's funds not in excess of \$500 cash and shall keep  
635 complete and accurate records of all such funds and personal  
636 effects received. If a client is absent from a facility for 24  
637 hours or more, the licensee may provide for the safekeeping of  
638 the client's personal effects of a value in excess of \$1,000.

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639       (5) Any funds or other property belonging to or due to a  
640 client or expendable for his or her account that is received by  
641 licensee shall be trust funds and shall be kept separate from  
642 the funds and property of the licensee and other clients or  
643 shall be specifically credited to such client. Such trust funds  
644 shall be used or otherwise expended only for the account of the  
645 client. At least once every month, unless upon order of a court  
646 of competent jurisdiction, the licensee shall furnish the client  
647 and the client's representative a complete and verified  
648 statement of all funds and other property to which this  
649 subsection applies, detailing the amount and items received,  
650 together with their sources and disposition. In any event, the  
651 licensee shall furnish such statement annually and upon the  
652 discharge or transfer of a client. Any governmental agency or  
653 private charitable agency contributing funds or other property  
654 to the account of a client shall also be entitled to receive  
655 such statement monthly and upon the discharge or transfer of the  
656 client.

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

- 659           1. Intentionally withholds a client's personal funds,  
660 personal property, or personal needs allowance, or who demands,  
661 beneficially receives, or contracts for payment of all or any  
662 part of a client's personal property or personal needs allowance  
663 in satisfaction of the facility rate for supplies and services;  
664 or  
665           2. Borrows from or pledges any personal funds of a client,  
666 other than the amount agreed to by written contract under s.  
667 429.24,

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669 commits a misdemeanor of the first degree, punishable as  
670 provided in s. 775.082 or s. 775.083.

671 (b) Any licensee, administrator, employee, or  
672 representative thereof who is granted power of attorney for any  
673 client of the facility and who misuses or misappropriates funds  
674 obtained through this power commits a felony of the third  
675 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
676 775.084.

677 (7) In the event of the death of a client, a licensee shall  
678 return all refunds, funds, and property held in trust to the  
679 client's personal representative, if one has been appointed at  
680 the time the licensee disburses such funds, or, if not, to the  
681 client's spouse or adult next of kin named in a beneficiary  
682 designation form provided by the licensee to the client. If the  
683 client has no spouse or adult next of kin or such person cannot  
684 be located, funds due the client shall be placed in an interest-  
685 bearing account and all property held in trust by the licensee  
686 shall be safeguarded until such time as the funds and property  
687 are disbursed pursuant to the Florida Probate Code. Such funds  
688 shall be kept separate from the funds and property of the  
689 licensee and other clients of the facility. If the funds of the  
690 deceased client are not disbursed pursuant to the Florida  
691 Probate Code within 2 years after the client's death, the funds  
692 shall be deposited in the Health Care Trust Fund administered by  
693 the agency.

694 (8) The agency may by rule clarify terms and specify  
695 procedures and documentation necessary to administer the  
696 provisions of this section relating to the proper management of



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697 clients' funds and personal property and the execution of surety  
698 bonds.

699 Section 13. Section 400.9981, Florida Statutes, is created  
700 to read:

701 400.9981 Rules establishing standards.-

702 (1) It is the intent of the Legislature that rules  
703 published and enforced pursuant to this part and part II of  
704 chapter 408 include criteria to ensure reasonable and consistent  
705 quality of care and client safety. Rules should make reasonable  
706 efforts to accommodate the needs and preferences of clients to  
707 enhance the quality of life in transitional living facilities.

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

712 (a) The location of transitional living facilities.

713 (b) The number of qualifications of all personnel,  
714 including management, medical, nursing, and other professional  
715 personnel and nursing assistants and support personnel having  
716 responsibility for any part of the care given to clients. The  
717 licensee must have enough qualified professional staff available  
718 to carry out and monitor the various professional interventions  
719 in accordance with the stated goals and objectives of each  
720 individual program plan.

721 (c) Requirements for personnel procedures, insurance  
722 coverage, reporting procedures, and documentation necessary to  
723 implement this part.

724 (d) Services provided to clients of transitional living  
725 facilities.

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726       (e) The preparation and annual update of a comprehensive  
727 emergency management plan in consultation with the Division of  
728 Emergency Management. At a minimum, the rules must provide for  
729 plan components that address emergency evacuation  
730 transportation; adequate sheltering arrangements; postdisaster  
731 activities, including provision of emergency power, food, and  
732 water; postdisaster transportation; supplies; staffing;  
733 emergency equipment; individual identification of clients and  
734 transfer of records; communication with families; and responses  
735 to family inquiries.

736       Section 14. Section 400.9982, Florida Statutes, is created  
737 to read:

738       400.9982 Violations; penalties.—

739       (1) Each violation of this part and rules adopted pursuant  
740 thereto shall be classified according to the nature of the  
741 violation and the gravity of its probable effect on facility  
742 clients. The agency shall indicate the classification on the  
743 written notice of the violation as follows:

744       (a) Class "I" violations are defined in s. 408.813. The  
745 agency shall issue a citation regardless of correction and  
746 impose an administrative fine of \$5,000 for an isolated  
747 violation, \$7,500 for a patterned violation, and \$10,000 for a  
748 widespread violation. Violations may be identified and a fine  
749 must be levied notwithstanding the correction of the deficiency  
750 giving rise to the violation.

751       (b) Class "II" violations are defined in s. 408.813. The  
752 agency shall impose an administrative fine of \$1,000 for an  
753 isolated violation, \$2,500 for a patterned violation, and \$5,000  
754 for a widespread violation. A fine must be levied

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755 notwithstanding the correction of the deficiency giving rise to  
756 the violation.

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

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

767 Section 15. Section 400.9983, Florida Statutes, is created  
768 to read:

769 400.9983 Receivership proceedings.—The agency may access  
770 the provisions of s. 429.22 regarding receivership proceedings  
771 for transitional living facilities.

772 Section 16. Section 400.9984, Florida Statutes, is created  
773 to read:

774 400.9984 Interagency communication.—The agency, the  
775 department, the Agency for Persons with Disabilities, and the  
776 Department of Children and Families shall develop an electronic  
777 database to ensure that relevant information pertaining to the  
778 regulation of transitional living facilities and clients is  
779 timely and effectively communicated among agencies in order to  
780 facilitate the protection of clients. Electronic sharing of  
781 information shall include, at a minimum, a brain and spinal cord  
782 injury registry and a client abuse registry.

783 Section 17. Section 400.805, Florida Statutes, is repealed.

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784 Section 18. Paragraph (b) of subsection (4) of section  
785 381.78, Florida Statutes, is amended to read:

786 381.78 Advisory council on brain and spinal cord injuries.-

787 (4) The council shall:

788 (b) Annually appoint a five-member committee composed of  
789 one individual who has a brain injury or has a family member  
790 with a brain injury, one individual who has a spinal cord injury  
791 or has a family member with a spinal cord injury, and three  
792 members who shall be chosen from among these representative  
793 groups: physicians, other allied health professionals,  
794 administrators of brain and spinal cord injury programs, and  
795 representatives from support groups with expertise in areas  
796 related to the rehabilitation of individuals who have brain or  
797 spinal cord injuries, except that one and only one member of the  
798 committee shall be an administrator of a transitional living  
799 facility. Membership on the council is not a prerequisite for  
800 membership on this committee.

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

807 2. Factual findings of the committee resulting from an  
808 onsite investigation of a facility pursuant to subparagraph 1.  
809 shall be adopted by the agency in developing its administrative  
810 response regarding enforcement of statutes and rules regulating  
811 the operation of the facility.

812 3. Onsite investigations by the committee shall be funded

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813 by the Health Care Trust Fund.

814 4. Travel expenses for committee members shall be  
815 reimbursed in accordance with s. 112.061.

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

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