

**By** the Committees on Health Policy; and Children, Families, and Elder Affairs; and Senators Garcia and Grimsley

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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 a comprehensive treatment  
14          plan 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.; requiring a

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30 facility to provide a therapeutic milieu that supports  
31 a culture of individual empowerment and  
32 responsibility; providing that the health and safety  
33 of the client is the primary concern of the facility;  
34 providing requirements and limitations for the use of  
35 physical restraints, seclusion, and chemical restraint  
36 medication on clients; requiring the Agency for Health  
37 Care Administration to adopt rules; creating s.  
38 400.9979, F.S.; providing background screening  
39 requirements; requiring the licensee to maintain  
40 certain personnel records; providing administrative  
41 responsibilities for licensees; providing  
42 recordkeeping requirements; creating s. 400.9980,  
43 F.S.; providing requirements relating to property and  
44 personal affairs of clients; providing requirements  
45 for a licensee with respect to obtaining surety bonds;  
46 providing recordkeeping requirements relating to the  
47 safekeeping of personal effects; providing  
48 requirements for trust funds received by licensee and  
49 credited to the client; providing a penalty for  
50 certain misuse of a resident's personal needs  
51 allowance; providing criminal penalties for  
52 violations; providing for the disposition of property  
53 in the event of the death of a client; authorizing the  
54 Agency for Health Care Administration to adopt rules;  
55 creating s. 400.9981, F.S.; authorizing the agency to  
56 adopt and enforce certain rules; creating s. 400.9982,  
57 F.S.; providing procedures relating to violations and  
58 penalties; providing administrative fines for

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59 specified classes of violations; creating s. 400.9983,  
60 F.S.; authorizing the agency to apply certain  
61 provisions with regard to receivership proceedings;  
62 creating s. 400.9984, F.S.; requiring the Agency for  
63 Health Care Administration, the Department of Health,  
64 the Agency for Persons with Disabilities, and the  
65 Department of Children and Families to develop  
66 electronic systems for certain purposes; repealing s.  
67 400.805, F.S., relating to transitional living  
68 facilities; providing that every transitional living  
69 facility licensed under s. 400.805, F.S., on or before  
70 a specified date is licensed under the provisions of  
71 the act; amending s. 381.745, F.S.; revising a  
72 definition; amending s. 381.75, F.S.; revising the  
73 duties of the Department of Health as they relate to  
74 transitional living facilities; amending s. 381.78,  
75 F.S.; conforming provisions to changes made by the  
76 act; amending ss. 408.802 and 408.820, F.S.;  
77 conforming a provision to changes made by the act;  
78 amending s. 400.93, F.S.; providing that transitional  
79 living facilities licensed under part XI of ch. 400,  
80 F.S., are exempt from home medical equipment provider  
81 licensure; amending s. 400.9905, F.S.; revising a  
82 definition; providing an effective date.

83

84 Be It Enacted by the Legislature of the State of Florida:

85

86 Section 1. Sections 400.9970 through 400.9984, Florida  
87 Statutes, are designated as part XI of chapter 400, Florida

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88 Statutes, entitled "Transitional Living Facilities."

89 Section 2. Section 400.9970, Florida Statutes, is created  
90 to read:

91 400.9970 Legislative intent.—It is the intent of the  
92 Legislature to provide for the licensure of transitional living  
93 facilities and require the development, establishment, and  
94 enforcement of basic standards by the Agency for Health Care  
95 Administration to ensure quality of care and services to clients  
96 in transitional living facilities. It is the policy of the state  
97 that the least restrictive appropriate available treatment be  
98 used based on the individual needs and best interest of the  
99 client and consistent with optimum improvement of the client's  
100 condition. The goal of a transitional living program for  
101 individuals who have brain or spinal cord injuries is to assist  
102 each individual who has such an injury to achieve a higher level  
103 of independent functioning and to enable that individual to  
104 reenter the community. It is also the policy of this state that  
105 the use of restraints and seclusion on clients is justified only  
106 as an emergency safety measure to be used in response to danger  
107 to the client or others. It is, therefore, the intent of the  
108 Legislature to achieve an ongoing reduction in the use of  
109 restraints and seclusion in programs and facilities that serve  
110 persons who have brain injury or spinal cord injuries.

111 Section 3. Section 400.9971, Florida Statutes, is created  
112 to read:

113 400.9971 Definitions.—As used in this part, the term:

114 (1) "Agency" means the Agency for Health Care  
115 Administration.

116 (2) "Chemical restraint" means a pharmacologic drug that

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117 physically limits, restricts, or deprives an individual of  
118 movement or mobility, is used for client protection or safety,  
119 and is not required for the treatment of medical conditions or  
120 symptoms.

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

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

125 (5) "Physical restraint" means any manual method to  
126 restrict freedom of movement of or normal access to an  
127 individual's body or a physical or mechanical device, material,  
128 or equipment attached or adjacent to the individual's body so  
129 that he or she cannot easily remove the restraint and which  
130 restricts freedom of movement of or normal access to one's body,  
131 including, but not limited to, a half-bed rail, a full-bed rail,  
132 a geriatric chair, and a posey restraint. The term includes any  
133 device that was not specifically manufactured as a restraint but  
134 which has been altered, arranged, or otherwise used for this  
135 purpose. The term does not include bandage material used for the  
136 purpose of binding a wound or injury.

137 (6) "Seclusion" means the physical segregation of a person  
138 in any fashion or the involuntary isolation of a person in a  
139 room or area from which the person is prevented from leaving.  
140 The prevention may be by physical barrier or by a staff member  
141 who is acting in a manner, or who is physically situated, so as  
142 to prevent the person from leaving the room or area. For  
143 purposes of this chapter, the term does not mean isolation due  
144 to a person's medical condition or symptoms.

145 (7) "Transitional living facility" means a site where

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146 specialized health care services are provided, including, but  
147 not limited to, rehabilitative services, behavior modification,  
148 community reentry training, aids for independent living, and  
149 counseling to individuals who have brain injuries or spinal cord  
150 injuries. The term does not require a provider that is licensed  
151 by the agency to obtain a separate transitional living facility  
152 license to serve persons who have brain injuries or spinal cord  
153 injuries as long as the services provided are within the scope  
154 of the provider's license.

155 Section 4. Section 400.9972, Florida Statutes, is created  
156 to read:

157 400.9972 License required; fee; application.-

158 (1) The requirements of part II of chapter 408 apply to the  
159 provision of services that require licensure pursuant to this  
160 part and part II of chapter 408 and to entities licensed by or  
161 applying for such licensure from the agency pursuant to this  
162 part. A license issued by the agency is required for the  
163 operation of a transitional living facility in this state.

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

169 (3) Each applicant for licensure must provide the  
170 following:

171 (a) The location of the facility for which a license is  
172 sought and documentation, signed by the appropriate local  
173 government official, which states that the applicant has met  
174 local zoning requirements.

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175 (b) Proof of liability insurance as provided in s. 624.605.

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

179 (d) Proof that the facility has received a satisfactory  
180 firesafety inspection.

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

183  
184 The applicant's proposed facility must attain and continuously  
185 maintain accreditation by an accrediting organization  
186 specializing in evaluating rehabilitation facilities whose  
187 standards incorporate comparable licensure regulations required  
188 by the state. An applicant for licensure as a transitional  
189 living facility must acquire accreditation within 12 months  
190 after the issuance of an initial license. The agency shall  
191 accept the accreditation survey report of the accrediting  
192 organization in lieu of conducting a licensure inspection if the  
193 standards included in the survey report are determined by the  
194 agency to document that the facility is in substantial  
195 compliance with state licensure requirements. The applicant  
196 shall submit to the agency within 10 days after receipt a copy  
197 of any accreditation survey report and evidence of the  
198 accreditation decision subsequent to a survey by the accrediting  
199 organization on the facility. This part does not preclude the  
200 agency from conducting periodic inspections of a transitional  
201 living facility to ensure compliance with all licensure  
202 requirements, and as it deems necessary to carry out the  
203 functions of the agency. An inspection may be conducted to

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204 ensure compliance with licensure requirements of this part, to  
205 validate the inspection process of accrediting organizations, to  
206 respond to licensure complaints, or to protect the public health  
207 and safety.

208 Section 5. Section 400.9973, Florida Statutes, is created  
209 to read:

210 400.9973 Client admission, transfer, and discharge.-

211 (1) Each transitional living facility must have written  
212 policies and procedures governing the admission, transfer, and  
213 discharge of clients.

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

217 (3) A client admitted to a transitional living facility  
218 must have a brain or spinal cord injury, such as a lesion to the  
219 spinal cord or cauda equina syndrome, with evidence of  
220 significant involvement of two of the following deficits or  
221 dysfunctions:

222 (a) A motor deficit.

223 (b) A sensory deficit.

224 (c) Bowel and bladder dysfunction.

225 (d) An acquired internal or external injury to the skull,  
226 the brain, or the brain's covering, whether caused by a  
227 traumatic or nontraumatic event, which produces an altered state  
228 of consciousness or an anatomic motor, sensory, cognitive, or  
229 behavioral deficit.

230 (4) A client whose medical condition and diagnosis does not  
231 positively identify a cause of the client's condition, whose  
232 symptoms are inconsistent with the known cause of injury, or



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233 whose recovery is inconsistent with the known medical condition  
234 may be admitted to a transitional living facility for evaluation  
235 for a period not to exceed 90 days.

236 (5) A client admitted to a transitional living facility  
237 must be admitted upon prescription by a licensed physician and  
238 must remain under the care of a licensed physician for the  
239 duration of the client's stay in the facility.

240 (6) A transitional living facility may not admit a client  
241 whose primary admitting diagnosis is mental illness or an  
242 intellectual or a developmental disability.

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

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

249 (b) Is a danger to self or others as determined by a  
250 physician or mental health practitioner licensed under chapter  
251 490 or chapter 491, unless the facility provides adequate  
252 staffing and support to ensure patient safety;

253 (c) Is bedridden; or

254 (d) Requires 24-hour nursing supervision.

255 (8) If the client meets the admission criteria, the medical  
256 or nursing director of the facility must complete an initial  
257 evaluation of the client's functional skills, behavioral status,  
258 cognitive status, educational or vocational potential, medical  
259 status, psychosocial status, sensorimotor capacity, and other  
260 related skills and abilities within the first 72 hours after the  
261 client's admission to the facility. An initial comprehensive

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262 treatment plan that delineates services to be provided and  
263 appropriate sources for such services must be implemented within  
264 the first 4 days after admission.

265 (9) Each transitional living facility shall develop a  
266 discharge plan for each client before or upon admission to the  
267 facility. The discharge plan must identify the intended  
268 discharge site and possible alternative discharge sites. For  
269 each discharge site identified, the discharge plan must identify  
270 the skills, behaviors, and other conditions that the client must  
271 achieve to be appropriate for discharge. Discharge plans must be  
272 reviewed and updated as necessary, but no less often than once  
273 monthly.

274 (10) As soon as practicable, a transitional living facility  
275 shall discharge a client when he or she no longer requires any  
276 of the specialized services described in s. 400.9971(7) or is  
277 not making measurable progress in accordance with his or her  
278 comprehensive treatment plan, or if the transitional living  
279 facility is no longer the most appropriate, least restrictive  
280 treatment option.

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

286 Section 6. Section 400.9974, Florida Statutes, is created  
287 to read:

288 400.9974 Client comprehensive treatment plans; client  
289 services.—

290 (1) Each transitional living facility shall develop a

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291 comprehensive treatment plan for each client as soon as  
292 possible, but no later than 30 days following development of the  
293 initial comprehensive treatment plan. Comprehensive treatment  
294 plans must be reviewed and updated if the client fails to meet  
295 projected improvements in the plan or if a significant change in  
296 the client's condition occurs. Comprehensive treatment plans  
297 must be reviewed and updated at least once monthly.  
298 Comprehensive treatment plans must be developed by an  
299 interdisciplinary team consisting of the case manager, the  
300 program director, the nurse, and appropriate therapists. The  
301 client or, if appropriate, the client's representative must be  
302 included in developing the comprehensive treatment plan.

303 (2) The comprehensive treatment plan must include the  
304 following:

305 (a) The physician's orders and the client's diagnosis,  
306 medical history, physical examination, and rehabilitative or  
307 restorative needs.

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

310 (c) A comprehensive, accurate, reproducible, and  
311 standardized assessment of the client's functional capability;  
312 the treatments designed to achieve skills, behaviors, and other  
313 conditions necessary to return to the community; and specific  
314 measurable goals.

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

317 (3) The client or, if appropriate, the client's  
318 representative must consent to the continued treatment at the  
319 transitional living facility. Consent may be for a period of up

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320 to 3 months. If such consent is not given, the transitional  
321 living facility shall discharge the client as soon as  
322 practicable.

323 (4) Each client must receive the professional program  
324 services needed to implement the client's comprehensive  
325 treatment plan.

326 (5) The licensee must employ qualified professional staff  
327 to carry out and monitor the various professional interventions  
328 in accordance with the stated goals and objectives of every  
329 client's comprehensive treatment plan.

330 (6) Each client must receive a continuous treatment program  
331 that includes appropriate, consistent implementation of a  
332 program of specialized and general training, treatment, health  
333 services, and related services which is directed toward:

334 (a) The acquisition of the behaviors and skills necessary  
335 for the client to function with as much self-determination and  
336 independence as possible;

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

339 (c) The management of behavioral issues that preclude  
340 independent functioning in the community.

341 Section 7. Section 400.9975, Florida Statutes, is created  
342 to read:

343 400.9975 Licensee responsibilities.-

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

345 (a) Lives in a safe environment free from abuse, neglect,  
346 and exploitation.

347 (b) Is treated with consideration and respect and with due  
348 recognition of personal dignity, individuality, and the need for

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349 privacy.

350 (c) Retains and uses his or her own clothes and other  
351 personal property in his or her immediate living quarters, so as  
352 to maintain individuality and personal dignity, except when the  
353 licensee can demonstrate that such retention and use would be  
354 unsafe, impractical, or an infringement upon the rights of other  
355 clients.

356 (d) Has unrestricted private communication, including  
357 receiving and sending unopened correspondence, access to a  
358 telephone, and visiting with any person of his or her choice.  
359 Upon request, the licensee shall make provisions to modify  
360 visiting hours for caregivers and guests. The facility shall  
361 restrict communication in accordance with any court order or  
362 written instruction of a client's representative. Any  
363 restriction on a client's communication for therapeutic reasons  
364 shall be documented and reviewed at least weekly and shall be  
365 removed as soon as it is no longer clinically indicated. The  
366 basis for the restriction shall be explained to the client and,  
367 if applicable, the client's representative. The client shall  
368 nonetheless retain the right to call the abuse hotline, the  
369 agency, and Disability Rights Florida at any and all times.

370 (e) Has the opportunity to participate in and benefits from  
371 community services and activities to achieve the highest  
372 possible level of independence, autonomy, and interaction within  
373 the community.

374 (f) Has the opportunity to manage his or her financial  
375 affairs unless the client or, if applicable, the client's  
376 representative authorizes the administrator of the facility to  
377 provide safekeeping for funds as provided in this part.

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

381 (h) Has the opportunity to exercise civil and religious  
382 liberties, including the right to independent personal  
383 decisions. No religious belief or practice, including attendance  
384 at religious services, shall be imposed upon any client.

385 (i) Has access to adequate and appropriate health care  
386 consistent with established and recognized standards within the  
387 community.

388 (j) Has the ability to present grievances and recommend  
389 changes in policies, procedures, and services to the staff of  
390 the licensee, governing officials, or any other person without  
391 restraint, interference, coercion, discrimination, or reprisal.  
392 Each licensee shall establish a grievance procedure to  
393 facilitate a client's ability to present grievances, including a  
394 system for investigating, tracking, managing, and responding to  
395 complaints by persons receiving services or individuals acting  
396 on their behalf, and an appeals process. This process must  
397 include access to Disability Rights Florida and other advocates  
398 and the right to be a member of, be active in, and associate  
399 with advocacy or special interest groups.

400 (2) The licensee shall:

401 (a) Promote participation of each client's representative  
402 in the process of providing treatment to the client unless the  
403 representative's participation is unobtainable or inappropriate.

404 (b) Answer communications from each client's family,  
405 guardians, and friends promptly and appropriately.

406 (c) Promote visits by individuals with a relationship to

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407 the client at any reasonable hour, without requiring prior  
408 notice, or in any area of the facility which provides direct  
409 client care services to the client, consistent with the client's  
410 and other clients' privacy, unless the interdisciplinary team  
411 determines that such a visit would not be appropriate.

412 (d) Promote leave from the facility for visits, trips, or  
413 vacations.

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

418 (3) The administrator of a facility shall ensure that a  
419 written notice of licensee responsibilities is posted in a  
420 prominent place in each building where clients reside and read  
421 or explained to clients who cannot read. This notice shall  
422 include the statewide toll-free telephone number for reporting  
423 complaints to the agency, must be provided to clients in a  
424 manner that is clearly legible, and must include the words: "To  
425 report a complaint regarding the services you receive, please  
426 call toll-free ...[telephone number]... or Disability Rights  
427 Florida ...[telephone number]..."; and the statewide toll-free  
428 telephone number for the central abuse hotline must be provided  
429 to clients in a manner that is clearly legible and must include  
430 the words: "To report abuse, neglect or exploitation, please  
431 call toll-free ...[telephone number where complaints may be  
432 lodged]...." The licensee must ensure a client's access to a  
433 telephone, where telephone numbers required in this subsection  
434 are readily available to call the agency, central abuse hotline,  
435 or Disability Rights Florida.

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436 (4) A licensee or employee of a facility may not serve  
437 notice upon a client to leave the premises or take any other  
438 retaliatory action against any person solely due to the  
439 following:

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

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

444 (5) Before or at the time of admission, the client and the  
445 client's representative shall be provided with a copy of the  
446 licensee's responsibilities as provided in this section,  
447 including grievance procedures and the telephone numbers  
448 provided in this section.

449 (6) The licensee must develop and implement policies and  
450 procedures governing the release of any client information,  
451 including consent necessary from the client or the client's  
452 representative.

453 Section 8. Section 400.9976, Florida Statutes, is created  
454 to read:

455 400.9976 Medication practices.—

456 (1) An individual medication administration record must be  
457 maintained for each client. Each dose of medication, including a  
458 self-administered dose, shall be properly recorded in the  
459 client's record. Each client who self-administers medication  
460 shall be given a pill organizer. Medication must be placed in  
461 the pill organizer by a nurse. A nurse shall document the date  
462 and time medication is placed into each client's pill organizer.  
463 All medications must be administered in compliance with the  
464 physician's orders.



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465       (2) If the interdisciplinary team determines that self-  
466 administration of medications is an appropriate objective, and  
467 if the physician does not specify otherwise, a client must be  
468 taught to self-administer his or her medication without a staff  
469 person. This includes all forms of administration, including  
470 orally, via injection, and via suppository. The client's  
471 physician must be informed of the interdisciplinary team's  
472 decision that self-administration of medications is an objective  
473 for the client. A client may not self-administer medication  
474 until he or she demonstrates the competency to take the correct  
475 medication in the correct dosage at the correct time, to respond  
476 to missed doses, and to contact an appropriate person with  
477 questions.

478       (3) Medication administration discrepancies and adverse  
479 drug reactions must be recorded and reported immediately to a  
480 physician.

481       Section 9. Section 400.9977, Florida Statutes, is created  
482 to read:

483       400.9977 Protection from abuse, neglect, mistreatment, and  
484 exploitation.—The licensee must develop and implement policies  
485 and procedures for the screening and training of employees, the  
486 protection of clients, and the prevention, identification,  
487 investigation, and reporting of abuse, neglect, and  
488 exploitation. This includes the licensee's identification of  
489 clients whose personal histories render them at risk for abusing  
490 other clients, development of intervention strategies to prevent  
491 occurrences, monitoring for changes that would trigger abusive  
492 behavior, and reassessment of the interventions on a regular  
493 basis. A licensee shall implement procedures to:

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494 (1) Screen potential employees for a history of abuse,  
495 neglect, or mistreatment of clients. The screening shall include  
496 an attempt to obtain information from previous employers and  
497 current employers and verification with the appropriate  
498 licensing boards.

499 (2) Train employees, through orientation and ongoing  
500 sessions, on issues related to abuse prohibition practices,  
501 including identification of abuse, neglect, mistreatment, and  
502 exploitation, appropriate interventions to deal with aggressive  
503 or catastrophic reactions of clients, the process to report  
504 allegations without fear of reprisal, and recognition of signs  
505 of frustration and stress that may lead to abuse.

506 (3) Provide clients, families, and staff with information  
507 on how and to whom they may report concerns, incidents, and  
508 grievances without the fear of retribution and provide feedback  
509 regarding the concerns that have been expressed. A licensee must  
510 identify, correct, and intervene in situations in which abuse,  
511 neglect, mistreatment, or exploitation is likely to occur,  
512 including:

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

516 (b) Providing sufficient staff on each shift to meet the  
517 needs of the clients, and ensuring that the staff assigned have  
518 knowledge of the individual clients' care needs. The licensee  
519 shall identify inappropriate behaviors of its staff, such as  
520 using derogatory language, rough handling, ignoring clients  
521 while giving care, and directing clients who need toileting  
522 assistance to urinate or defecate in their beds.

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523       (c) Assessing, planning care for, and monitoring clients  
524 with needs and behaviors that might lead to conflict or neglect,  
525 such as clients with a history of aggressive behaviors, clients  
526 who have behaviors such as entering other clients' rooms,  
527 clients with self-injurious behaviors, clients with  
528 communication disorders, and clients who require heavy nursing  
529 care or are totally dependent on staff.

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

533       (5) Investigate different types of incidents, identify the  
534 staff member responsible for the initial reporting, investigate  
535 alleged violations, and report results to the proper  
536 authorities. The licensee must analyze the occurrences to  
537 determine what changes are needed, if any, to policies and  
538 procedures to prevent further occurrences and to take all  
539 necessary corrective action depending on the results of the  
540 investigation.

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

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

547       Section 10. Section 400.9978, Florida Statutes, is created  
548 to read:

549       400.9978 Restraints and seclusion; client safety.—

550       (1) Each facility shall provide a therapeutic milieu that  
551 supports a culture of individual empowerment and responsibility.

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552 The health and safety of the client shall be the primary concern  
553 at all times.

554 (2) The use of physical restraints must be ordered and  
555 documented by a physician and must be consistent with policies  
556 and procedures adopted by the facility. The client or, if  
557 applicable, the client's representative must be informed of the  
558 facility's physical restraint policies and procedures at the  
559 time of the client's admission.

560 (3) The use of chemical restraints is limited to prescribed  
561 dosages of medications as ordered by a physician and must be  
562 consistent with the client's diagnosis and the policies and  
563 procedures adopted by the facility. The client and, if  
564 applicable, the client's representative must be informed of the  
565 facility's chemical restraint policies and procedures at the  
566 time of the client's admission.

567 (4) Based on a physician's assessment, if a client exhibits  
568 symptoms that present an immediate risk of injury or death to  
569 self or others, a physician may issue an emergency treatment  
570 order to immediately administer rapid response psychotropic  
571 medications or other chemical restraints. Each emergency  
572 treatment order must be documented and maintained in the  
573 client's record.

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

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

579 (5) A client who is prescribed and receiving a medication  
580 that can serve as a chemical restraint for a purpose other than

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581 an emergency treatment order must be evaluated by his or her  
582 physician at least monthly to assess the following:

583 (a) The continued need for the medication.

584 (b) The level of the medication in the client's blood, as  
585 appropriate.

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

587 (6) The licensee shall ensure that clients are free from  
588 unnecessary drugs and physical restraints and are provided  
589 treatment to reduce dependency on drugs and physical restraints.

590 (7) The licensee may use physical restraints and seclusion  
591 only as authorized by the facility's written physical restraint  
592 and seclusion policies, which must be in compliance with this  
593 section and applicable rules.

594 (8) Interventions to manage dangerous client behavior must  
595 be employed with sufficient safeguards and supervision to ensure  
596 that the safety, welfare, and civil and human rights of each  
597 client are adequately protected.

598 (9) A facility shall notify the parent or guardian of a  
599 client each time restraint or seclusion is used. Such  
600 notification must be within 24 hours from the time the restraint  
601 or seclusion occurs. Reasonable efforts must be taken to notify  
602 the parent or guardian by telephone or e-mail, or both, and  
603 these efforts must be documented.

604 (10) The agency may adopt by rule standards and procedures  
605 relating to the use of restraints, restraint positioning,  
606 seclusion, and emergency treatment orders for psychotropic  
607 medications, restraint, and seclusion. These rules must include  
608 duration of restraint use, staff training, client observation  
609 during restraint, and documentation and reporting standards.

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610 Section 11. Section 400.9979, Florida Statutes, is created  
611 to read:

612 400.9979 Background screening; administration and  
613 management.—

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

617 (2) The licensee shall maintain personnel records for each  
618 staff member which contain, at a minimum, documentation of  
619 background screening, if applicable, a job description,  
620 documentation of compliance with all training requirements of  
621 this part or applicable rule, the employment application,  
622 references, a copy of all job performance evaluations, and, for  
623 each staff member who performs services for which licensure or  
624 certification is required, a copy of all licenses or  
625 certification held by the staff member.

626 (3) The licensee must:

627 (a) Develop and implement infection control policies and  
628 procedures and include such policies and procedures in the  
629 licensee's policy manual.

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

631 (c) Designate one person as an administrator who is  
632 responsible and accountable for the overall management of the  
633 facility.

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

637 (e) Designate in writing a program director who is  
638 responsible for supervising the therapeutic and behavioral

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639 staff, determining the levels of supervision, and determining  
640 room placement for each client.

641 (f) Designate in writing a person to be responsible when  
642 the program director is absent from the facility for more than  
643 24 hours.

644 (g) Obtain approval of the comprehensive emergency  
645 management plan, pursuant to s. 400.9981(2)(e), from the local  
646 emergency management agency. Pending the approval of the plan,  
647 the local emergency management agency shall ensure that the  
648 following agencies, at a minimum, are given the opportunity to  
649 review the plan: the Department of Health, the Agency for Health  
650 Care Administration, and the Division of Emergency Management.  
651 Appropriate volunteer organizations must also be given the  
652 opportunity to review the plan. The local emergency management  
653 agency shall complete its review within 60 days and either  
654 approve the plan or advise the licensee of necessary revisions.

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

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

662 2. A record of all accidents or unusual incidents involving  
663 any client or staff member that caused, or had the potential to  
664 cause, injury or harm to any person or property within the  
665 facility. Such records must contain a clear description of each  
666 accident or incident, the names of the persons involved, a  
667 description of all medical or other services provided to these

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668 persons specifying who provided such services, and the steps  
669 taken to prevent recurrence of such accidents or incidents.

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

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

674 Section 12. Section 400.9980, Florida Statutes, is created  
675 to read:

676 400.9980 Property and personal affairs of clients.—

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

682 (2) The admission of a client to a facility and his or her  
683 presence therein shall not confer on a licensee, administrator,  
684 employee, or representative thereof any authority to manage,  
685 use, or dispose of any property of the client, nor shall such  
686 admission or presence confer on any of such persons any  
687 authority or responsibility for the personal affairs of the  
688 client except that which may be necessary for the safe  
689 management of the facility or for the safety of the client.

690 (3) A licensee, administrator, employee, or representative  
691 thereof may:

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

694 (b) Act as a competent client's payee for social security,  
695 veteran's, or railroad benefits if the client provides consent  
696 and the licensee files a surety bond with the agency in an



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697 amount equal to twice the average monthly aggregate income or  
698 personal funds due to the client, or expendable for the client's  
699 account, that are received by a licensee.

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

705  
706 The bond under paragraph (b) or paragraph (c) shall be executed  
707 by the licensee as principal and a licensed surety company. The  
708 bond shall be conditioned upon the faithful compliance of the  
709 licensee with the requirements of licensure and shall be payable  
710 to the agency for the benefit of any client who suffers a  
711 financial loss as a result of the misuse or misappropriation of  
712 funds held pursuant to this subsection. Any surety company that  
713 cancels or does not renew the bond of any licensee shall notify  
714 the agency in writing not less than 30 days in advance of such  
715 action, giving the reason for the cancellation or nonrenewal.  
716 Any licensee, administrator, employee, or representative thereof  
717 who is granted power of attorney for any client of the facility  
718 shall, on a monthly basis, notify the client in writing of any  
719 transaction made on behalf of the client pursuant to this  
720 subsection, and a copy of such notification given to the client  
721 shall be retained in each client's file and available for agency  
722 inspection.

723 (4) A licensee, upon mutual consent with the client, shall  
724 provide for the safekeeping in the facility of the client's  
725 personal effects of a value not in excess of \$1,000 and the

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726 client's funds not in excess of \$500 cash and shall keep  
727 complete and accurate records of all such funds and personal  
728 effects received. If a client is absent from a facility for 24  
729 hours or more, the licensee may provide for the safekeeping of  
730 the client's personal effects of a value in excess of \$1,000.

731 (5) Any funds or other property belonging to or due to a  
732 client or expendable for his or her account that is received by  
733 licensee shall be trust funds and shall be kept separate from  
734 the funds and property of the licensee and other clients or  
735 shall be specifically credited to such client. Such trust funds  
736 shall be used or otherwise expended only for the account of the  
737 client. At least once every month, unless upon order of a court  
738 of competent jurisdiction, the licensee shall furnish the client  
739 and the client's representative a complete and verified  
740 statement of all funds and other property to which this  
741 subsection applies, detailing the amount and items received,  
742 together with their sources and disposition. In any event, the  
743 licensee shall furnish such statement annually and upon the  
744 discharge or transfer of a client. Any governmental agency or  
745 private charitable agency contributing funds or other property  
746 to the account of a client shall also be entitled to receive  
747 such statement monthly and upon the discharge or transfer of the  
748 client.

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

751 1. Intentionally withholds a client's personal funds,  
752 personal property, or personal needs allowance, or who demands,  
753 beneficially receives, or contracts for payment of all or any  
754 part of a client's personal property or personal needs allowance

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755 in satisfaction of the facility rate for supplies and services;  
756 or

757 2. Borrows from or pledges any personal funds of a client,  
758 other than the amount agreed to by written contract under s.  
759 429.24,

760

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

763 (b) Any licensee, administrator, employee, or  
764 representative thereof who is granted power of attorney for any  
765 client of the facility and who misuses or misappropriates funds  
766 obtained through this power commits a felony of the third  
767 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
768 775.084.

769 (7) In the event of the death of a client, a licensee shall  
770 return all refunds, funds, and property held in trust to the  
771 client's personal representative, if one has been appointed at  
772 the time the licensee disburses such funds, or, if not, to the  
773 client's spouse or adult next of kin named in a beneficiary  
774 designation form provided by the licensee to the client. If the  
775 client has no spouse or adult next of kin or such person cannot  
776 be located, funds due the client shall be placed in an interest-  
777 bearing account and all property held in trust by the licensee  
778 shall be safeguarded until such time as the funds and property  
779 are disbursed pursuant to the Florida Probate Code. Such funds  
780 shall be kept separate from the funds and property of the  
781 licensee and other clients of the facility. If the funds of the  
782 deceased client are not disbursed pursuant to the Florida  
783 Probate Code within 2 years after the client's death, the funds

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784 shall be deposited in the Health Care Trust Fund administered by  
785 the agency.

786 (8) The agency, by rule, may clarify terms and specify  
787 procedures and documentation necessary to administer the  
788 provisions of this section relating to the proper management of  
789 clients' funds and personal property and the execution of surety  
790 bonds.

791 Section 13. Section 400.9981, Florida Statutes, is created  
792 to read:

793 400.9981 Rules establishing standards.-

794 (1) It is the intent of the Legislature that rules  
795 published and enforced pursuant to this part and part II of  
796 chapter 408 include criteria to ensure reasonable and consistent  
797 quality of care and client safety. Rules should make reasonable  
798 efforts to accommodate the needs and preferences of clients to  
799 enhance the quality of life in transitional living facilities.

800 (2) The agency may adopt and enforce rules to implement  
801 this part and part II of chapter 408, which shall include  
802 reasonable and fair criteria in relation to the following:

803 (a) The location of transitional living facilities.

804 (b) The number of qualifications of all personnel,  
805 including management, medical, nursing, and other professional  
806 personnel and nursing assistants and support personnel having  
807 responsibility for any part of the care given to clients. The  
808 licensee must have enough qualified professional staff available  
809 to carry out and monitor the various professional interventions  
810 in accordance with the stated goals and objectives of each  
811 comprehensive treatment plan.

812 (c) Requirements for personnel procedures, reporting

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813 procedures, and documentation necessary to implement this part.

814 (d) Services provided to clients of transitional living  
815 facilities.

816 (e) The preparation and annual update of a comprehensive  
817 emergency management plan in consultation with the Division of  
818 Emergency Management. At a minimum, the rules must provide for  
819 plan components that address emergency evacuation  
820 transportation; adequate sheltering arrangements; postdisaster  
821 activities, including provision of emergency power, food, and  
822 water; postdisaster transportation; supplies; staffing;  
823 emergency equipment; individual identification of clients and  
824 transfer of records; communication with families; and responses  
825 to family inquiries.

826 Section 14. Section 400.9982, Florida Statutes, is created  
827 to read:

828 400.9982 Violations; penalties.—

829 (1) Each violation of this part and rules adopted pursuant  
830 thereto shall be classified according to the nature of the  
831 violation and the gravity of its probable effect on facility  
832 clients. The agency shall indicate the classification on the  
833 written notice of the violation as follows:

834 (a) Class "I" violations are defined in s. 408.813. The  
835 agency shall issue a citation regardless of correction and  
836 impose an administrative fine of \$5,000 for an isolated  
837 violation, \$7,500 for a patterned violation, and \$10,000 for a  
838 widespread violation. Violations may be identified and a fine  
839 must be levied notwithstanding the correction of the deficiency  
840 giving rise to the violation.

841 (b) Class "II" violations are defined in s. 408.813. The

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842 agency shall impose an administrative fine of \$1,000 for an  
843 isolated violation, \$2,500 for a patterned violation, and \$5,000  
844 for a widespread violation. A fine must be levied  
845 notwithstanding the correction of the deficiency giving rise to  
846 the violation.

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

853 (d) Class "IV" violations are defined in s. 408.813. The  
854 agency shall impose an administrative fine for a cited class IV  
855 violation in an amount not less than \$100 and not exceeding \$200  
856 for each violation. If a deficiency giving rise to a class "IV"  
857 violation is corrected within the time specified by the agency,  
858 a fine may not be imposed.

859 Section 15. Section 400.9983, Florida Statutes, is created  
860 to read:

861 400.9983 Receivership proceedings.—The agency may apply s.  
862 429.22 with regard to receivership proceedings for transitional  
863 living facilities.

864 Section 16. Section 400.9984, Florida Statutes, is created  
865 to read:

866 400.9984 Interagency communication.—The agency, the  
867 department, the Agency for Persons with Disabilities, and the  
868 Department of Children and Families shall develop electronic  
869 systems to ensure that relevant information pertaining to the  
870 regulation of transitional living facilities and clients is

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871 timely and effectively communicated among agencies in order to  
872 facilitate the protection of clients. Electronic sharing of  
873 information shall include, at a minimum, a brain and spinal cord  
874 injury registry and a client abuse registry.

875 Section 17. Section 400.805, Florida Statutes, is repealed.  
876 Every transitional living facility licensed under s. 400.805 on  
877 or before July 1, 2013, shall be licensed under the provisions  
878 of this act.

879 Section 18. Subsection (9) of section 381.745, Florida  
880 Statutes, is amended to read:

881 381.745 Definitions; ss. 381.739-381.79.—As used in ss.  
882 381.739-381.79, the term:

883 (9) “Transitional living facility,” for the purpose of this  
884 part, means a state-approved facility, as defined and licensed  
885 under chapter 400 ~~or chapter 429, or a facility approved by the~~  
886 ~~brain and spinal cord injury program in accordance with this~~  
887 chapter.

888 Section 19. Section 381.75, Florida Statutes, is amended to  
889 read:

890 381.75 Duties and responsibilities of the department, ~~of~~  
891 ~~transitional living facilities, and of residents.~~—Consistent  
892 with the mandate of s. 381.7395, the department shall develop  
893 and administer a multilevel treatment program for individuals  
894 who sustain brain or spinal cord injuries and who are referred  
895 to the brain and spinal cord injury program.

896 (1) Within 15 days after any report of an individual who  
897 has sustained a brain or spinal cord injury, the department  
898 shall notify the individual or the most immediate available  
899 family members of their right to assistance from the state, the

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900 services available, and the eligibility requirements.

901 (2) The department shall refer individuals who have brain  
902 or spinal cord injuries to other state agencies to assure that  
903 rehabilitative services, if desired, are obtained by that  
904 individual.

905 (3) The department, in consultation with emergency medical  
906 service, shall develop standards for an emergency medical  
907 evacuation system that will ensure that all individuals who  
908 sustain traumatic brain or spinal cord injuries are transported  
909 to a department-approved trauma center that meets the standards  
910 and criteria established by the emergency medical service and  
911 the acute-care standards of the brain and spinal cord injury  
912 program.

913 (4) The department shall develop standards for designation  
914 of rehabilitation centers to provide rehabilitation services for  
915 individuals who have brain or spinal cord injuries.

916 (5) The department shall determine the appropriate number  
917 of designated acute-care facilities, inpatient rehabilitation  
918 centers, and outpatient rehabilitation centers, needed based on  
919 incidence, volume of admissions, and other appropriate criteria.

920 (6) The department shall develop standards for designation  
921 of transitional living facilities to provide transitional living  
922 services for individuals who participate in the brain and spinal  
923 cord injury program ~~the opportunity to adjust to their~~  
924 ~~disabilities and to develop physical and functional skills in a~~  
925 ~~supported living environment.~~

926 ~~(a) The Agency for Health Care Administration, in~~  
927 ~~consultation with the department, shall develop rules for the~~  
928 ~~licensure of transitional living facilities for individuals who~~



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929 ~~have brain or spinal cord injuries.~~

930 ~~(b) The goal of a transitional living program for~~  
931 ~~individuals who have brain or spinal cord injuries is to assist~~  
932 ~~each individual who has such a disability to achieve a higher~~  
933 ~~level of independent functioning and to enable that person to~~  
934 ~~reenter the community. The program shall be focused on preparing~~  
935 ~~participants to return to community living.~~

936 ~~(c) A transitional living facility for an individual who~~  
937 ~~has a brain or spinal cord injury shall provide to such~~  
938 ~~individual, in a residential setting, a goal-oriented treatment~~  
939 ~~program designed to improve the individual's physical,~~  
940 ~~cognitive, communicative, behavioral, psychological, and social~~  
941 ~~functioning, as well as to provide necessary support and~~  
942 ~~supervision. A transitional living facility shall offer at least~~  
943 ~~the following therapies: physical, occupational, speech,~~  
944 ~~neuropsychology, independent living skills training, behavior~~  
945 ~~analysis for programs serving brain-injured individuals, health~~  
946 ~~education, and recreation.~~

947 ~~(d) All residents shall use the transitional living~~  
948 ~~facility as a temporary measure and not as a permanent home or~~  
949 ~~domicile. The transitional living facility shall develop an~~  
950 ~~initial treatment plan for each resident within 3 days after the~~  
951 ~~resident's admission. The transitional living facility shall~~  
952 ~~develop a comprehensive plan of treatment and a discharge plan~~  
953 ~~for each resident as soon as practical, but no later than 30~~  
954 ~~days after the resident's admission. Each comprehensive~~  
955 ~~treatment plan and discharge plan must be reviewed and updated~~  
956 ~~as necessary, but no less often than quarterly. This subsection~~  
957 ~~does not require the discharge of an individual who continues to~~

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958 ~~require any of the specialized services described in paragraph~~  
959 ~~(c) or who is making measurable progress in accordance with that~~  
960 ~~individual's comprehensive treatment plan. The transitional~~  
961 ~~living facility shall discharge any individual who has an~~  
962 ~~appropriate discharge site and who has achieved the goals of his~~  
963 ~~or her discharge plan or who is no longer making progress toward~~  
964 ~~the goals established in the comprehensive treatment plan and~~  
965 ~~the discharge plan. The discharge location must be the least~~  
966 ~~restrictive environment in which an individual's health, well-~~  
967 ~~being, and safety is preserved.~~

968 ~~(7) Recipients of services, under this section, from any of~~  
969 ~~the facilities referred to in this section shall pay a fee based~~  
970 ~~on ability to pay.~~

971 Section 20. Subsection (4) of section 381.78, Florida  
972 Statutes, is amended to read:

973 381.78 Advisory council on brain and spinal cord injuries.—

974 (4) The council shall:

975 ~~(a)~~ provide advice and expertise to the department in the  
976 preparation, implementation, and periodic review of the brain  
977 and spinal cord injury program.

978 ~~(b) Annually appoint a five-member committee composed of~~  
979 ~~one individual who has a brain injury or has a family member~~  
980 ~~with a brain injury, one individual who has a spinal cord injury~~  
981 ~~or has a family member with a spinal cord injury, and three~~  
982 ~~members who shall be chosen from among these representative~~  
983 ~~groups: physicians, other allied health professionals,~~  
984 ~~administrators of brain and spinal cord injury programs, and~~  
985 ~~representatives from support groups with expertise in areas~~  
986 ~~related to the rehabilitation of individuals who have brain or~~

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987 ~~spinal cord injuries, except that one and only one member of the~~  
988 ~~committee shall be an administrator of a transitional living~~  
989 ~~facility. Membership on the council is not a prerequisite for~~  
990 ~~membership on this committee.~~

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

997 ~~2. Factual findings of the committee resulting from an~~  
998 ~~onsite investigation of a facility pursuant to subparagraph 1.~~  
999 ~~shall be adopted by the agency in developing its administrative~~  
1000 ~~response regarding enforcement of statutes and rules regulating~~  
1001 ~~the operation of the facility.~~

1002 ~~3. Onsite investigations by the committee shall be funded~~  
1003 ~~by the Health Care Trust Fund.~~

1004 ~~4. Travel expenses for committee members shall be~~  
1005 ~~reimbursed in accordance with s. 112.061.~~

1006 ~~5. Members of the committee shall recuse themselves from~~  
1007 ~~participating in any investigation that would create a conflict~~  
1008 ~~of interest under state law, and the council shall replace the~~  
1009 ~~member, either temporarily or permanently.~~

1010 Section 21. Subsection (21) of section 408.802, Florida  
1011 Statutes, is amended to read:

1012 408.802 Applicability.—The provisions of this part apply to  
1013 the provision of services that require licensure as defined in  
1014 this part and to the following entities licensed, registered, or  
1015 certified by the agency, as described in chapters 112, 383, 390,

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1016 394, 395, 400, 429, 440, 483, and 765:

1017 (21) Transitional living facilities, as provided under part  
1018 XI ~~∅~~ of chapter 400.

1019 Section 22. Subsection (20) of section 408.820, Florida  
1020 Statutes, is amended to read:

1021 408.820 Exemptions.—Except as prescribed in authorizing  
1022 statutes, the following exemptions shall apply to specified  
1023 requirements of this part:

1024 (20) Transitional living facilities, as provided under part  
1025 XI ~~∅~~ of chapter 400, are exempt from s. 408.810(10).

1026 Section 23. Subsection (5) of section 400.93, Florida  
1027 Statutes, is amended to read:

1028 400.93 Licensure required; exemptions; unlawful acts;  
1029 penalties.—

1030 (5) The following are exempt from home medical equipment  
1031 provider licensure, unless they have a separate company,  
1032 corporation, or division that is in the business of providing  
1033 home medical equipment and services for sale or rent to  
1034 consumers at their regular or temporary place of residence  
1035 pursuant to the provisions of this part:

1036 (a) Providers operated by the Department of Health or  
1037 Federal Government.

1038 (b) Nursing homes licensed under part II.

1039 (c) Assisted living facilities licensed under chapter 429,  
1040 when serving their residents.

1041 (d) Home health agencies licensed under part III.

1042 (e) Hospices licensed under part IV.

1043 (f) Intermediate care facilities, homes for special  
1044 services, and transitional living facilities licensed under part

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1045 V.

1046 (g) Transitional living facilities licensed under part XI.1047 (h)~~(g)~~ Hospitals and ambulatory surgical centers licensed  
1048 under chapter 395.1049 (i)~~(h)~~ Manufacturers and wholesale distributors when not  
1050 selling directly to consumers.1051 (j)~~(i)~~ Licensed health care practitioners who utilize home  
1052 medical equipment in the course of their practice, but do not  
1053 sell or rent home medical equipment to their patients.1054 (k)~~(j)~~ Pharmacies licensed under chapter 465.1055 Section 24. Paragraph (l) of subsection (4) of section  
1056 400.9905, Florida Statutes, is amended to read:

1057 400.9905 Definitions.—

1058 (4) "Clinic" means an entity where health care services are  
1059 provided to individuals and which tenders charges for  
1060 reimbursement for such services, including a mobile clinic and a  
1061 portable equipment provider. As used in this part, the term does  
1062 not include and the licensure requirements of this part do not  
1063 apply to:1064 (l) Orthotic, ~~or~~ prosthetic, pediatric cardiology, or  
1065 perinatology clinical facilities or anesthesia clinical  
1066 facilities that are not otherwise exempt under paragraph (a) or  
1067 paragraph (k) and that are a publicly traded corporation or ~~that~~  
1068 are wholly owned, directly or indirectly, by a publicly traded  
1069 corporation. As used in this paragraph, a publicly traded  
1070 corporation is a corporation that issues securities traded on an  
1071 exchange registered with the United States Securities and  
1072 Exchange Commission as a national securities exchange.

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1074 Notwithstanding this subsection, an entity shall be deemed a  
1075 clinic and must be licensed under this part in order to receive  
1076 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.  
1077 627.730-627.7405, unless exempted under s. 627.736(5)(h).  
1078       Section 25. This act shall take effect July 1, 2013.