

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 111 Transitional Living Facilities

SPONSOR(S): Health Innovation Subcommittee; Magar

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	11 Y, 0 N, As CS	Guzzo	Poche
2) Health & Human Services Committee	18 Y, 0 N	Guzzo	Calamas

SUMMARY ANALYSIS

Transitional Living Facilities (TLFs) provide specialized health care services including, but not limited to, rehabilitative services, community re-entry training, aids for independent living, and counseling to individuals who sustain brain or spinal cord injuries. The bill consolidates the oversight, care and services of clients of TLFs under specific licensure requirements of the Agency for Health Care Administration (AHCA).

The bill promotes coordination between various state agencies involved in the regulation of TLFs by requiring AHCA, the Department of Health, the Agency for Persons with Disabilities, and the Department of Children and Families to develop an electronic database to ensure relevant client data is communicated timely and effectively.

Specifically, the bill makes the following changes:

- Requires TLFs to maintain accreditation by an accrediting organization specializing in evaluating rehabilitation facilities;
- Adds specific admission requirements and requires a client to be admitted by a licensed physician, physician assistant, or advanced registered nurse practitioner;
- Adds specific discharge requirements and clarifies the conditions that a client must meet to be eligible for discharge;
- Adds care and service plan requirements detailing orders for medical care, client functional capability and goals, and transition plans;
- Requires TLFs to provide specific professional services directed toward improving the client's functional status;
- Enables TLF clients to manage their funds and personal possessions, and have visitors;
- Requires TLFs to establish grievance procedures and a system for investigating, tracking, managing, and responding to complaints, which must include an appeals process;
- Provides standards for medication management, assistance with medication, use of restraints, seclusion procedures, infection control, safeguarding clients' funds, and emergency preparedness;
- Adds provisions to protect clients from abuse including proper staff screening, training, prevention, identification, and investigation;
- Provides AHCA the authority to develop rules for physical plant standards, personnel, and services to clients;
- Provides standard licensure criteria, including compliance with local zoning, liability insurance, fire-safety inspection, and sanitation requirements;
- Creates sanctions for violations and provides authority to place a court-ordered receiver if the licensee fails to take responsibility for the facility and places clients at risk;
- Clarifies that providers already licensed by AHCA, who serve brain and spinal-cord injured persons, are not required to obtain a separate license as a TLF; and
- Revises the Brain and Spinal Cord Injury Advisory Council's rights to entry and inspection of TLFs.

The bill has an indeterminate, but likely insignificant, fiscal impact on state government.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Transitional living facilities (TLFs) provide specialized health care services, including rehabilitative services, community reentry training, aids for independent living, and counseling, to spinal-cord-injured persons and head-injured persons.¹ There are currently fourteen TLFs licensed in Florida.² Four state agencies have a role in regulating TLFs: the Agency for Health Care Administration (AHCA), the Department of Health (DOH), the Agency for Persons with Disabilities (APD), and the Department of Children and Families (DCF).

AHCA is the licensing authority for TLFs pursuant to chapter 408, part II, chapter 400, part V, F.S., and Chapter 59A-17, F.A.C. Compared to other types of facilities regulated by AHCA, the detail and scope of regulations for TLFs in statute and administrative rule is significantly narrower and less restrictive, as the regulations focus more on solvency than resident care.

Section 400.805, F.S., is the specific licensure authority for TLFs. However, this section only addresses fees for operation of a TLF, level 2 background screening requirements for TLF personnel, and rights to entry and inspection by AHCA investigative personnel. The current licensure fee is \$4,588.00 with a \$90 per bed fee per biennium.³ Further, this section requires AHCA, in consultation with DOH, to adopt rules governing the physical plant and the fiscal management of TLFs. Like the authorizing statute, the corresponding rules, in Chapter 59A-17, F.A.C., provide minimal regulatory guidance.

DOH administers the Brain and Spinal Cord Injury Program (BSCIP) under s. 381.75, F.S., to provide services for persons with traumatic brain and spinal cord injuries. Services provided by the BSCIP include:

- Case management;
- Acute care, and inpatient and outpatient rehabilitation;
- Transitional living;
- Assistive technology;
- Home and vehicle modifications;
- Nursing home transition facilitation; and
- Long-term support for survivors and families through contractual agreements with community based agencies.

Section 381.76, F.S., requires a participant in the BSCIP to be a legal Florida resident who has sustained a brain or spinal cord injury. For purposes of the BSCIP, a brain or spinal cord injury means “a lesion to the spinal cord or cauda equina, resulting from external trauma.”⁴ However, s. 400.805 (1), F.S., relating to TLFs, provides that residents of a TLF must be “spinal-cord-injured persons or head-injured persons.” These inconsistent definitions have led to uncertainty as to whether or not TLFs can provide services to individuals who are not participants in the BSCIP or to individuals who have a brain or spinal cord injury that was not the result of external trauma.

The Brain and Spinal Cord Injury Advisory Council (Council), created within DOH pursuant to s. 381.78, F.S., is tasked with providing advice and expertise to DOH in the preparation, implementation, and

¹ Section 400.805(1)(c), F.S.

² Agency for Health Care Administration, Florida HealthFinder, Facility/Provider Locator-Transitional Living Facilities, available at www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx (last viewed on January 30, 2015).

³ Agency for Health Care Administration, *2015 Agency Legislative Bill Analysis for HB 111*, January 7, 2015 (on file with the Health Innovation subcommittee).

⁴ Section 381.745(2), F.S.

periodic review of the BSCIP. The Council has the same rights to entry and inspection of TLFs as AHCA under s. 400.805(4), F.S.

DCF performs investigations concerning allegations of abuse and neglect of vulnerable adults, including those in TLFs.⁵

AHCA is responsible for the licensure of TLFs, while DOH monitors services for persons with traumatic brain and spinal cord injuries, and DCF investigates allegations of abuse and neglect of vulnerable adults. In working together during the investigation, gaps and deficiencies in the three-agency TLF regulatory structure were discovered.

Effect of Proposed Changes

The bill consolidates the oversight of care and services to clients of TLFs in specific licensure requirements of AHCA and promotes coordination between AHCA, DOH, and DCF.

The bill creates Part XI of chapter 400, F.S., including ss. 400.997 to 400.9986 to serve as the new licensure statute for TLFs. The bill transfers and renumbers the current TLF licensure statute, s. 400.805, F.S., to s. 400.9986, F.S., and repeals this section effective July 1, 2016.

The bill creates s. 400.997, F.S., stating the intent of the legislation to provide for the development, establishment and enforcement of basic standards for TLFs to ensure quality of care and services to residents. Further, the bill states the policy of the state that the use of restraint and seclusion of TLF clients is justified only as an emergency safety measure to be used in response to danger to the client or others. Lastly, the bill states the intent of the legislature to achieve an ongoing reduction in the use of restraint and seclusion in programs and facilities serving individuals with brain or spinal-cord injuries.

Section 400.9971, F.S., is created to define terms relating to TLFs, and adds new terminology to include seclusion, and chemical and physical restraints and their use. The bill adds “behavior modification” services to the list of specialized health care services in the definition of a TLF.

Section 400.9972, F.S., is created to provide licensure requirements for TLFs, including compliance with local zoning, liability insurance, fire-safety inspection, and sanitation requirements. This section also provides the application fees for TLFs, \$4,588 and a \$90 per-bed fee per biennium, and adds language to clarify that the fees must be adjusted to conform to the annual cost of living adjustment, pursuant to s. 408.805(2), F.S. In addition, the bill requires TLFs to maintain accreditation by an accrediting organization specializing in evaluating rehabilitation facilities whose standards incorporate comparable licensure regulations required by the state. Applicants for licensure as a TLF must be accredited within 12 months of the issuance of an initial license. The bill authorizes AHCA to accept an accreditation survey report by the accrediting organization in lieu of conducting a licensure inspection. Further, the bill authorizes AHCA to conduct inspections to assure compliance with licensure requirements, validate the inspection process of accrediting organizations, and to respond to licensure complaints or to protect public health and safety.

The bill clarifies that providers already licensed by AHCA, serving brain and spinal-cord injured persons under their existing license, are not required to obtain a separate license as a TLF.

Admission, Transfer and Discharge Requirements

The bill creates s. 400.9973, F.S., to establish requirements that TLFs must have in place for client admission, transfer and discharge from the facility. The admission, transfer and discharge policies and

⁵ Section 415.104(1), F.S.
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procedures must be in writing. The client's admission to the facility must follow facility policies and procedures.

Each resident admitted to the facility is required to be admitted upon prescription by a licensed physician, physician assistant (PA), or advanced registered nurse practitioner (ARNP), and must remain under the care of the physician for the duration of the client's stay. Clients admitted to the facility must have: an injury to the skull, brain, or its covering which produces an altered state of consciousness, or a spinal cord injury, such as a lesion to the spinal cord or cauda equina syndrome, with evidence of significant involvement of two of the following:

- Motor deficit.
- Sensory deficit.
- Cognitive deficit.
- Behavioral deficit.
- Bowel and bladder dysfunction.

This definition of a brain or spinal cord injury, as it relates to admission requirements of TLFs, differs from the definition of a brain or spinal cord injury for purposes of the BSCIP, in that it does not require the injury to be the result of external trauma.

In cases where a client's medical diagnosis does not positively identify a cause of the client's condition, or whose symptoms are inconsistent with the known cause of injury, or whose recovery is inconsistent with the known medical condition, the bill allows for an individual to be admitted for an evaluation period not to exceed ninety-days.

The bill prohibits TLFs from admitting a client whose primary diagnosis is mental illness or an intellectual or developmental disability. In addition, the bill provides that a person may not be admitted to a TLF if the person:

- Presents a significant risk of infection to other clients or personnel;⁶
- Is a danger to herself or himself, or others as determined by a physician, PA, ARNP, or mental health practitioner, unless the facility provides adequate staffing and support to ensure patient safety;
- Is bedridden; or
- Requires 24-hour nursing supervision.

When a client meets the admission criteria, the medical or nursing director must complete an initial evaluation of the client's functional skills, behavioral status, cognitive status, educational or vocational potential, medical status, psychosocial status, sensorimotor capacity, and other related skills and abilities within the first seventy-two hours of admission. Further, the bill requires the facility to implement an initial comprehensive treatment plan that outlines services to be provided within the first four days of admission.

The bill requires TLFs to develop a discharge plan for each client prior to or upon admission to the facility. The discharge plan must identify intended discharge sites and possible alternate discharge sites. For each discharge site identified, the discharge plan must identify the skills, behaviors, and other conditions that the client must achieve to be eligible for discharge. The bill requires discharge plans to be reviewed and updated at least once a month.

The bill allows for the discharge of clients as soon as practicable if the TLF is no longer the most appropriate, least restrictive treatment option, and for clients who:

- No longer require any of the specialized services described in s. 400.9971(7), F.S.; or
- Are not making measurable progress in accordance with their comprehensive treatment plan.

⁶ In addition the bill requires a health care practitioner to provide documentation that the person is free of apparent signs and symptoms of communicable disease.

The bill requires TLFs to provide at least 30 days' notice to clients of transfer or discharge plans, which must include an acceptable transfer location if the client is unable to live independently, unless the client voluntarily terminates residency.

Client Treatment Plans and Client Services

The bill creates s. 400.9974, F.S., to require each client in the facility to have a comprehensive treatment plan which is developed by an interdisciplinary team, consisting of the case manager, program director, ARNP, appropriate therapists, and the client and/or the client's representative. The comprehensive treatment plan must be completed no later than 30 days after development of the initial comprehensive treatment plan. Treatment plans must be reviewed and updated at least once a month. The plan must be reevaluated and updated if a client fails to meet the projected improvements outlined in the plan or if a significant change in the client's condition occurs. Qualified staff must carry out and monitor interventions in accordance with the stated goals of the individual's program plan.

Each comprehensive treatment plan must include the following:

- Orders obtained from the client's physician, PA, or ARNP, and the client's diagnosis, medical history, physical exams and rehabilitation needs;
- A preliminary nursing evaluation, including orders for immediate care provided by the physician, PA, or ARNP, to be completed upon admission;
- A standardized assessment of the client's functional capability; and
- A plan to achieve transition to the community and the estimated length of time to achieve transition goals.

The bill requires a client or their representative to consent to continued treatment at the TLF. The consent may be for a period of up to three months and if consent is not given, the TLF must discharge the client as soon as possible.

The bill requires the TLF to employ qualified professionals to conduct the various professional interventions in accordance with the goals and objectives of the program. Each client must receive a continuous treatment program that includes appropriate, consistent implementation of specialized and general training, treatment, and services.

Provider Responsibilities

The bill creates s. 400.9975, F.S., to require TLF licensees to ensure that every client:

- Lives in a safe environment;
- Is treated with respect, recognition of personal dignity, and privacy;
- Retains use of their own clothes and personal property;
- Has unrestricted private communications, which includes mail, telephone and visitors;
- Participates in community services and activities;
- Manages their financial affairs unless the client or the client's representative authorizes the administrator of the facility to provide safekeeping for funds;
- Has reasonable opportunity for regular exercise and be outdoors more than once per week.
- Exercises civil and religious liberties;
- Has adequate access to appropriate health care services;
- Has the opportunity to present grievances and recommend changes in policies, procedures and services;
- Is enabled to have a representative participate in treatment;
- Receives prompt responses from the facility to communications from family and friends;
- Have visits by individuals with a relationship to the client at any reasonable hour; and
- Has the opportunity to leave the facility to visit and take trips or vacations.

To facilitate a client's ability to present grievances, the facility is required to provide a system for investigating, tracking, managing, and responding to complaints, which must include an appeals process.

The administrator must post a written notice of provider responsibilities in a prominent place in the facility which includes the statewide toll-free telephone number for reporting complaints to AHCA and the statewide toll-free number of Disability Rights of Florida. The facility must ensure the client has access to a telephone, which has the telephone numbers posted for AHCA, the central abuse hotline, Disabilities Rights of Florida and the local advocacy council. The facility cannot take retaliatory action against any person for filing a complaint or grievance, or for appearing as a witness in any hearing.

Additionally, the client's representative must be promptly notified of any significant incidents or changes in the client's condition.

Administration of Medication

The bill creates s. 400.9976, F.S., to require TLFs to maintain a medication administration record for each client, including medications that are self-administered. The interdisciplinary team determines if a client is capable of self-administration of medications if the physician, PA, or ARNP does not specify otherwise. Each patient who is self-administering must be given a pill organizer and a nurse must place the medications inside the pill organizer and document the date and time the pill organizer is filled. All medications, including those that are self-administered, must be administered as ordered by a physician, PA, or ARNP. Drug administration errors and adverse drug reactions must be recorded and reported immediately to the physician, PA, or ARNP.

Assistance with Medication

The bill creates s. 400.9977, F.S., which permits unlicensed direct care services staff that provide client services to administer prescribed, prepackaged and premeasured medications, after the completion of training in medication administration and under the supervision of a registered nurse. Medication administration training for unlicensed direct care services staff must be conducted by a physician, pharmacist or registered nurse.

TLFs that allow unlicensed direct care services staff to administer medications must:

- Develop and implement policies and procedures;
- Maintain written evidence of a client's consent;
- Maintain a copy of the written prescription; and
- Maintain required training documentation.

Client Protection

The bill creates s. 400.9977, F.S., to establish provisions relating to the protection of clients from abuse, neglect, mistreatment, and exploitation. The bill makes the facility responsible for developing and implementing policies and procedures for screening and training employees, protecting clients, and preventing, identifying, investigating, and reporting abuse, neglect, mistreatment, and exploitation. The facility is also required to identify clients whose history renders them at risk for abusing other clients. Further, the facility must implement procedures to:

- Screen potential employees for a history of abuse, neglect or mistreatment;
- Train employees on abuse prohibition practices;
- Provide information to clients, families and staff on how and to whom they may report concerns, incidents and grievances without the fear of retribution;
- Identify events that may constitute abuse in order to determine the direction of the investigation;
- Investigate different types of incidents and identify staff members responsible for the initial reporting and reporting of results to the proper authorities;
- Protect clients from harm during an investigation; and

- Report all alleged violations and all substantiated incidents, as required under chapters 39 and 415, F.S., to the appropriate licensing authorities.

The facility must have a sufficient number of staff to meet the needs of the clients, and must assure that staff has knowledge of the individual client's care needs. The facility must analyze the occurrences of abuse, exploitation, mistreatment or neglect and determine what changes are needed to policies and procedures to prevent further occurrences.

Restraints and Seclusion

The bill creates s. 400.9979, F.S., to require a client's physician, PA, or ARNP to order and document the use of physical and chemical restraints, with the consent of the client or client's representative. The use of chemical restraints is limited to the prescribed dosage by the client's physician, PA, or ARNP. The use of physical restraint and seclusion may only be used as authorized by the facility's written physical restraint and seclusion policies. The facility must notify the client's parent or guardian within 24 hours of the use of a restraint or seclusion.

The bill authorizes a physician, PA, or ARNP to issue an emergency treatment order to immediately administer rapid response psychotropic medications or other chemical restraints when a client exhibits symptoms that present an immediate risk of injury or death to themselves or others. Each emergency treatment order must be documented and maintained in the client's record and is only effective for 24 hours.

A client who receives medications as a restraint must be evaluated by their physician, PA, or ARNP at least monthly to assess the:

- Continued need for the medication;
- Level of the medication in the client's blood; and
- Need for adjustments in the prescription.

The facility is required to ensure that clients are free from unnecessary drugs and physical restraints. All interventions to manage inappropriate client behaviors must be administered with sufficient safeguards and supervision.

The bill authorizes AHCA to adopt rules relating to:

- Use of restraint, restraint positioning, seclusion and emergency orders for psychotropic medications;
- Duration of restraint use;
- Staff training;
- Client observation during restraint; and
- Documentation and reporting standards.

Background Screening and Administration/Management

The bill creates s. 400.998, F.S., to require all facility personnel to complete a level 2 background screening pursuant to chapter 435, F.S. The facility must maintain personnel records with the staff's background screening, job description, documentation of compliance with training requirements, and a copy of all licenses or certifications held by staff that performs services for which licensure or certification is required. The record must also include a copy of all job performance evaluations.

The bill requires the facility to:

- Implement infection control policies and procedures.
- Maintain liability insurance as defined by section 624.605, F.S.
- Designate one person as administrator who is responsible for overall management.
- Designate in writing a person responsible for the facility when the administrator is absent for 24 hours.
- Designate in writing a program director that is responsible for supervising the therapeutic and behavioral staff, and determining the levels of supervision and room placement for each client.
- Designate in writing a person to be responsible when the program director is absent from the facility for more than 24 hours.
- Obtain approval of the comprehensive emergency management plan from their local emergency management agency.
- Maintain written records, in a form and system in accordance with medical and business practices, that are available for submission to AHCA upon request. The records must include:
 - A daily census record;
 - A report of all accidents or unusual incidents involving clients or staff that caused or had the potential to cause injury or harm to any person or property within the facility;
 - Any agreements with third party providers; and
 - Any agreements with consultants employed by the facility and documentation of each consultant's visits and required written, dated reports.

Property and Personal Affairs of Clients

The bill creates s. 400.9981, F.S., to require facilities to give clients options of using their own personal belongings, and to choose their own roommate whenever possible. The admission of a client to a facility, and their presence therein, does not give an administrator, employee, or representative any authority to manage, use, or dispose of any property of the client. The licensee, administrator, employee, or representative may not act as the client's guardian, trustee, or payee for social security or other benefits, but may act as the power of attorney for a client if the licensee has filed a surety bond with AHCA in an amount equal to twice the average monthly income of the client. When a power of attorney is granted to a licensee, administrator, employee, or representative, they must notify the client on a monthly basis of any transactions made on their behalf and a copy of such notice must be retained in the client's file. Any licensee, administrator, staff, or representative thereof, who is granted power of attorney for any client of the facility and who misuses or misappropriates funds obtained through this power commits a felony of the third degree.

The bill requires the facility to, upon consent from the client, provide for the safekeeping of personal effects up to \$1,000, and up to \$500 in cash. The facility must keep complete and accurate records of all funds and personal effects received from clients.

Any funds or other property belonging to or due to a client must either be treated as funds held in trust and kept separate from the funds and property of the licensee, or be specifically credited to the client. At least once every month, unless upon order of a court, the facility must give the client and the client's representative a complete and verified statement of all funds and other property, detailing the items and amount received, and their sources and disposition.

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

Rules Establishing Standards

The bill creates s. 400.9982, F.S., to authorize AHCA to adopt rules with "reasonable and fair criteria" regarding the:

- Location of TLFs;
- Qualifications of all personnel having responsibility for any part of the client's care and services;
- Requirements for personnel procedures and reporting procedures;
- Services provided to clients; and
- Preparation and annual update of the comprehensive emergency management plan.

Penalties and Violations

The bill creates s. 400.9983, F.S., to authorize AHCA to adopt rules to establish classifications of violations according to the nature of the violation and the gravity of its probable effect on the client. The violation classifications are as follows:

- Class "I" violations result in a citation regardless of correction and an administrative fine up to \$10,000 for a widespread violation.
- Class "II" violations result in an administrative fine up to \$5,000 for a widespread violation.
- Class "III" violations result in an administrative fine up to \$1,000 for an uncorrected deficiency of a widespread violation.
- Class "IV" violations result in an administrative fine of at least \$100 but not exceeding \$200 for an uncorrected deficiency.

A TLF may avoid the imposition of a fine for a class IV violation if the deficiency is corrected within a specified period of time.

Receivership Proceedings

The bill creates s. 400.9984, F.S., to apply the receivership proceeding provisions for assisted living facilities in s. 429.22, F.S., to TLFs. AHCA is authorized to petition a court for the appointment of a receiver when:

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

A petition for receivership takes priority over other court business. A hearing must be conducted within five days of the petition filing. AHCA must notify the owner or administrator of the facility named in the petition of the date of the hearing. The court may grant the petition only upon a finding that the health, safety or welfare of a client is threatened if a condition existing at the time the petition was filed is allowed to continue.

A receiver may be appointed from a list of qualified persons developed by AHCA. The receiver must make provisions for the continued health, safety and welfare of all clients, perform all duties set out by the court, and operate the facility in a manner to assure the safety and adequate health care for clients. The receiver may use all resources and consumable goods in the provision of care services to clients and correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety of clients and staff. The receiver may hire or contract staff to carry out the duties of the receiver.

The receiver must also honor all leases and mortgages, and has the power to direct, manage, and discharge employees of the facility.

Interagency Communication

The bill creates s. 400.9985, F.S., to require AHCA, APD, DOH and DCF to develop electronic systems to ensure timely communication of relevant data regarding the regulation of TLFs among the agencies. The bill requires the system to include, at a minimum, a brain and spinal cord injury registry and a client abuse registry.

B. SECTION DIRECTORY:

- Section 1:** Creates ss. 400.997 through 400.9986, F.S., as part XI of chapter 400, F.S., to be entitled “Transitional Living Facilities”.
- Section 2:** Transfers and renumbers s. 400.805, F.S., as s. 400.9986, F.S.
- Section 3:** Repeals s. 400.9986, F.S., effective July 1, 2016.
- Section 4:** Redesignates the title of part V of chapter 400, F.S., as “Intermediate Care Facilities”.
- Section 5:** Amends s. 381.745, F.S., relating to definitions.
- Section 6:** Amends s. 381.75, F.S., relating to duties and responsibilities of the department of transitional living facilities, and of residents.
- Section 7:** Amends s. 381.78, F.S., relating to the advisory council on brain and spinal cord injuries.
- Section 8:** Amends s. 400.93, F.S., relating to licensure required; exemptions; unlawful acts; penalties.
- Section 9:** Amends s. 408.802, F.S., relating to applicability.
- Section 10:** Amends s. 408.820, F.S., relating to exemptions.
- Section 11:** Reenacts s. 381.79(1), F.S., for purposes of incorporating the amendment made by this act to s. 381.75, F.S., in a reference thereto.
- Section 12:** Provides that a transitional living facility licensed under 400.805, F.S., before the effective date of this act, must be licensed under and in compliance with s. 400.9986, F.S., until the licensee becomes licensed under and in compliance with part XI of chapter 400, F.S., as created by this act. Such licensees must be licensed under and in compliance with part XI of chapter 400, F.S., on or before July 1, 2016. A transitional living facility that is licensed on or after July 1, 2015, must be licensed under and in compliance with part XI of chapter 400, F.S.
- Section 13:** Provides an effective date of July 1, 2015, except as otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

AHCA is responsible for licensing TLFs. The current licensure fee is \$4,588.00 with a \$90 per bed fee per biennium. There are currently 14 facilities located within the state. The amount of revenue collected for licensure is expected to remain constant. Additionally, AHCA is responsible for the regulation and collection of administrative fines for TLFs. Based upon historical experience, there is expected to be minimal to no revenues associated with administrative fine collection. Finally, the bill requires that personal property funds of deceased residents that are not disbursed pursuant to Florida Probate Code within two years after death are to be deposited within AHCA’s Health Care Trust Fund. The amount of funds expected to be deposited within AHCA’s Health Care Trust Fund is indeterminate, but likely insignificant.

2. Expenditures:

The bill requires AHCA, DOH, APD, and DCF to develop electronic systems to share relevant information pertaining to regulation of TLFs. The cost of developing this system is estimated to be insignificant and can be absorbed within each department’s existing resources. Additionally,

AHCA's current staff responsible for TLF regulation will continue to provide these functions in the future and will not require additional staff or resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA is authorized to adopt rules related to assistance with medication, restraints, seclusion, client safety, and quality of care.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 9, 2015, the Health Innovation Subcommittee adopted a strike-all amendment and reported the bill favorable as a committee substitute. The amendment made the following changes to the bill:

- Required unlicensed direct care services staff to complete medication administration training prior to providing assistance with medication to TLF patients;
- Permits AHCA to make rules relating to:
 - Standards and procedures for client safety in the use of restraints and seclusion;
 - The location of TLFs;
 - The qualifications of certain personnel;
 - Requirements for personnel procedures and reporting procedures;
 - The provision of services; and
 - The preparation and annual update of a comprehensive emergency management plan.
- Transfers, instead of repeals, the current TLF licensure statute to provide clarity and avoid confusion as to which licensure statute to follow in the interim gap between the effective date of the newly created TLF licensure statute and the repeal of the current TLF licensure statute.

The analysis is drafted to the committee substitute as passed by the Health Innovation Subcommittee.