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# Health & Human Services Committee

Thursday, April 4, 2013  
10:30 AM – 1:00 PM  
Morris Hall

Action Packet

Will Weatherford  
Speaker

Richard Corcoran  
Chair

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**  
**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**Summary:**

**Health & Human Services Committee**

*Thursday April 04, 2013 10:30 am*

CS/HB 241	Favorable	Yeas: 17	Nays: 0
CS/CS/HB 253	Favorable	Yeas: 17	Nays: 0
HB 601	Favorable	Yeas: 15	Nays: 0
HB 605	Not Considered		
CS/CS/HB 701	Favorable With Committee Substitute	Yeas: 12	Nays: 6
	Amendment 832313	Failed to Adopt	
	Amendment 324153	Adopted Without Objection	
HB 725	Favorable	Yeas: 17	Nays: 1
CS/HB 831	Temporarily Deferred		
	There was an amendment to amendment 1, which passed, with no further action on the main amendment or any other amendments.		
CS/HB 847	Favorable	Yeas: 17	Nays: 0
CS/HB 939	Favorable With Committee Substitute	Yeas: 14	Nays: 4
	Amendment 599067	Adopted Without Objection	
CS/HB 1015	Favorable With Committee Substitute	Yeas: 18	Nays: 0
	Amendment 443247	Adopted Without Objection	
	Amendment 265483	Withdrawn	
CS/HB 1109	Favorable With Committee Substitute	Yeas: 16	Nays: 0
	Amendment 568569	Adopted Without Objection	
HB 1115	Favorable	Yeas: 17	Nays: 0
CS/CS/HB 1129	Favorable With Committee Substitute	Yeas: 15	Nays: 0
	Amendment 002423	Adopted Without Objection	
	Amendment 153261	Adopted Without Objection	
HB 1157	Favorable	Yeas: 17	Nays: 0
CS/HB 1161	Favorable	Yeas: 17	Nays: 0
HB 7103	Favorable	Yeas: 16	Nays: 1

**Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM**

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Richard Corcoran (Chair)	X		
Larry Ahern	X		
Gwyndolen Clarke-Reed	X		
W. Travis Cummings	X		
Katie Edwards	X		
Mike Fasano	X		
Joseph Gibbons	X		
Gayle Harrell	X		
Mia Jones	X		
Shevrin Jones	X		
Mark Pafford	X		
Jimmy Patronis	X		
Cary Pigman	X		
Ronald Renuart	X		
Kenneth Roberson	X		
Elaine Schwartz	X		
John Tobia	X		
John Wood	X		
<b>Totals:</b>	<b>18</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/HB 241 : Community Health Workers**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

**Appearances:**

Pitts, Brian (General Public) - Waive In Support  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/CS/HB 253 : Protection of Vulnerable Adults**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

**Appearances:**

Cantwell, Laura (Lobbyist) - Waive In Support  
 AARP  
 200 W. College Ave., Suite 304  
 Tallahassee FL 32301  
 Phone: (850) 577-5163

Kelly, Natalie (Lobbyist) - Waive In Support  
 Alzheimer's Association  
 1984-B Nicklaus Dr.  
 Tallahassee FL 32301  
 Phone: 850) 570-5747

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**HB 601 : Department of Elderly Affairs**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings			X		
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis			X		
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

**Appearances:**

Pitts, Brian (General Public) - Waive In Support  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**HB 605 : Workers' Compensation**

*Not Considered*

**Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM**

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/CS/HB 701 : Electronic Benefit Transfer Program**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed		X			
W. Travis Cummings	X				
Katie Edwards	X				
Mike Fasano	X				
Joseph Gibbons		X			
Gayle Harrell	X				
Mia Jones		X			
Shevrin Jones		X			
Mark Pafford		X			
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 12</b>		<b>Total Nays: 6</b>			

**CS/CS/HB 701 Amendments**

**Amendment 832313**

*Failed to Adopt*

**Amendment 324153**

*Adopted Without Objection*

**Appearances:**

Support of Amendment to Amendment #832313  
Huddleston, Cindy (Lobbyist) - Waive In Support  
Florida Legal Services, Inc  
2425 Toreya Dr  
Tallahassee FL 32303  
Phone: 850)385-7900

Flora, Jerilyn (State Employee) - Waive In Support  
Department of Children and Families  
1317 Winewood Blvd., Bldg. 3  
Tallahassee FL 32399  
Phone: 850) 717-4093

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM



**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/CS/HB 701 : Electronic Benefit Transfer Program (continued)**

**Appearances: (continued)**

Pitts, Brian (General Public) - Waive In Support

Justice-2-Jesus

1119 Newton Ave. S.

St. Petersburg FL 33705

Phone: (727) 897-9291

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION  (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Committee

3 Representative Smith offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 402.82, Florida Statutes, is amended to  
8 read:

9 402.82 Electronic benefits ~~benefit~~ transfer program.—

10 (1) The Department of Children and Families ~~Family~~  
 11 ~~Services~~ shall establish an electronic benefits ~~benefit~~ transfer  
 12 program for the dissemination of food assistance benefits and  
 13 temporary cash assistance payments, including refugee cash  
 14 assistance payments, asylum applicant payments, and child  
 15 support disregard payments. If the Federal Government does not  
 16 enact legislation or regulations providing for dissemination of  
 17 supplemental security income by electronic benefits ~~benefit~~  
 18 transfer, the state may include supplemental security income in  
 19 the electronic benefits ~~benefit~~ transfer program.



Amendment No.

20 (2) The department shall, in accordance with applicable  
21 federal laws and regulations, develop minimum program  
22 requirements and other policy initiatives, including enforcement  
23 procedures, for the electronic benefits ~~benefit~~ transfer  
24 program.

25 (3) The department shall enter into public-private  
26 contracts for all provisions of electronic transfer of public  
27 assistance benefits.

28 (4) Use or acceptance of an electronic benefits transfer  
29 card is prohibited at the following locations or for the  
30 following activities:

31 (a) An establishment licensed under the Beverage Law to  
32 sell distilled spirits as a vendor and restricted as to the  
33 types of products that can be sold under ss. 565.04 and 565.045  
34 or a bottle club as defined in s. 561.01.

35 (b) An adult entertainment establishment as defined in s.  
36 847.001.

37 (c) A pari-mutuel facility as defined in s. 550.002.

38 (d) A slot machine facility as defined in s. 551.102.

39 (e) A commercial bingo facility that operates outside the  
40 provisions of s. 849.0931.

41 (f) A casino, gaming facility, or gambling facility, or  
42 any gaming activities authorized under part II of chapter 285.

43

44 Section 2. This act shall take effect October 1, 2013.

45

46

47

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**T I T L E A M E N D M E N T**



Amendment No.

48 Remove everything before the enacting clause and insert:  
49 A bill to be entitled  
50 An act relating to electronic benefits transfer cards;  
51 amending s. 402.82, F.S.; conforming terminology;  
52 proving enforcement authority to the department;  
53 restricting the use of electronic benefits transfer  
54 cards; providing that an electronic benefits transfer  
55 card may not be used or accepted at certain  
56 establishments licensed under the Beverage Law, an  
57 adult entertainment establishment, a pari-mutuel  
58 facility, a slot machine facility, an unauthorized  
59 commercial bingo facility, a casino, a gaming facility  
60 or gambling facility, or any gaming activities  
61 authorized under part II of ch. 285, F.S.; providing  
62 an effective date.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>  ✓  </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Committee  
3 Representative Pafford offered the following:

4  
5 **Amendment to Amendment (324153) by Representative Smith**  
6 **(with title amendment)**

7 Between lines 42 and 43 of the amendment, insert:

8 (5) Consistent with federal law, the department shall  
9 establish policies and procedures necessary to prevent access to  
10 Temporary Assistance to Needy Families benefits through any  
11 electronic benefits transfer in an automated teller machine or  
12 point of sale device located in a liquor store, casino, gambling  
13 or gaming establishment, or an adult-oriented unclothed  
14 entertainment retail venue as these outlets are defined under  
15 federal law. The department is responsible for systematic  
16 prevention and elimination of the prohibited transactions  
17 statewide by requiring electronic benefits transfer contractors  
18 to program the electronic benefits transfer systems and block or



Amendment No.

19 disable automated teller machines and point of sale devices  
20 statewide in accordance with this prohibition.

21

22 -----

23

**T I T L E   A M E N D M E N T**

24

Remove line 61 of the amendment and insert:

25

authorized under part II of ch. 285, F.S.; prohibiting

26

such cards from being accepted in certain locations or

27

for certain activities; providing responsibilities of

28

the Department of Children and Families to require

29

certain contractors who program electronic benefits

30

transfer systems for the department to conform to

31

certain prohibitions regarding certain machines and

32

devices; providing

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**HB 725 : Public Records and Public Meetings Exemptions**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards	X				
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford		X			
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 17</b>		<b>Total Nays: 1</b>			

**Appearances:**

Pitts, Brian (General Public) - Information Only  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/HB 831 : Controlled Substance Prescription**

*Temporarily Deferred* - There was an amendment to amendment 1, which passed, with no further action on the main amendment or any other amendments.

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM



**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/HB 847 : Temporary Certificates for Visiting Physicians**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17.HOB)

**CS/HB 939 : Medicaid Fraud**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed		X			
W. Travis Cummings	X				
Katie Edwards	X				
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones		X			
Shevrin Jones	X				
Mark Pafford		X			
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz		X			
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 14      Total Nays: 4</b>					

**CS/HB 939 Amendments**

**Amendment 599067**

*Adopted Without Objection*

**Appearances:**

Dughi, Leslie (Lobbyist) - Waive In Support  
 Associated Industries of Florida  
 516 N. Adams St  
 Tallahassee FL 32301  
 Phone: (850) 222-6891

Christian, David (Lobbyist) - Waive In Support  
 Florida Chamber of Commerce  
 136 S. Bronough St.  
 Tallahassee FI 32301  
 Phone: (850) 521-1211

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Health & Human Services  
 2 Committee  
 3 Representative Pigman offered the following:

**Amendment (with title amendment)**

Between lines 255 and 256, insert:

Section 2. Subsection (17) of section 409.910, Florida Statutes, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.--

(17) (a) A recipient or his or her legal representative or any person representing, or acting as agent for, a recipient or the recipient's legal representative, who has notice, excluding notice charged solely by reason of the recording of the lien pursuant to paragraph (6)(c), or who has actual knowledge of the agency's rights to third-party benefits under this section, who receives any third-party benefit or proceeds therefrom for a covered illness or injury, is required either to pay the agency, within 60 days after receipt of settlement proceeds, the full



Amendment No.

48 Administrative Hearings. For purposes of chapter 120, the  
49 payment of funds to the agency or placing the full amount of the  
50 third-party benefits in the trust account for the benefit of the  
51 agency constitutes final agency action and notice thereof. This  
52 procedure constitutes the exclusive method by which the amount  
53 of third-party benefits payable to the agency may be challenged.  
54 In order to successfully challenge the amount payable to the  
55 agency, the recipient must prove, by clear and convincing  
56 evidence, that a lesser portion of the total recovery should be  
57 allocated as reimbursement for past and future medical expenses  
58 than that amount calculated by the agency pursuant to paragraph  
59 (11)(f) or that Medicaid provided a lesser amount of medical  
60 assistance than that determined by the agency. The Division of  
61 Administrative Hearings has final order authority for  
62 proceedings under this section.

63 (c) The agency's provider processing system reports are  
64 admissible as prima facie evidence in substantiating the  
65 agency's claim.

66 (d) Venue for all administrative proceedings pursuant to  
67 paragraph (a) shall be in Leon County, at the discretion of the  
68 agency. Venue for all appellate proceedings arising from the  
69 administrative proceeding pursuant to paragraph (a) shall be at  
70 the First District Court of Appeal, at the discretion of the  
71 agency.

72 (e) Each party shall bear its own attorney fees and costs  
73 for any proceeding conducted pursuant to paragraph (a) or  
74 paragraph (b).



Amendment No.

102 2. Until such time as the Department of Legal Affairs  
103 refers the case for criminal prosecution;

104 3. Until such time as an indictment or criminal  
105 information is filed by a state attorney in a criminal case; or

106 4. At all times if otherwise protected by law.  
107

108 -----

109 **T I T L E A M E N D M E N T**

110 Remove line 12 and insert:  
111 screening; amending s. 409.910, F.S.; revising  
112 provisions relating to settlements of Medicaid claims  
113 against third parties; providing procedures for a  
114 Medicaid recipient to contest the amount of recovered  
115 medical expense damages; amending s. 409.913, F.S.;  
116 increasing the

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/HB 1015 : State Ombudsman Program**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards	X				
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 18</b>	<b>Total Nays: 0</b>				

**CS/HB 1015 Amendments**

**Amendment 443247**

*Adopted Without Objection*

**Amendment 265483**

*Withdrawn*

**Appearances:**

In Support of Amendment to Amendment 265483  
 Berkowitz, Carol (Lobbyist) - Waive In Support  
 Leading Age Fla (Formerly FAHSA)  
 1812 Riggins Rd  
 Tallahassee FL 32308  
 Phone: (850) 671-3700

Opponent to Amendment to Amendment 265483  
 Murray, G. C. (Lobbyist) - Opponent  
 Florida Justice Association  
 218 S. Monroe St.  
 Tallahassee FL 32301  
 Phone: (305) 469-5206

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/HB 1015 : State Ombudsman Program (continued)**

**Appearances: (continued)**

Proponent of Strike all Amendment #443247

Murray, G. C. (Lobbyist) - Proponent

Florida Justice Association

218 S Monroe St

Tallahassee FL 32301

Phone: (305) 469-5206

Opponent of Amendment to Amendment 265483

Lee, Brian (Lobbyist) (General Public) - Opponent

Executive Director, Families for Better Care

P O Box 982

Tallahassee FL 32302

Phone: (850) 224-3322

Proponent of Strike All Amendment 443247

Asztalos, Robert (Lobbyist) - Proponent

Florida Health Care Association

307 W. Park Ave.

Tallahassee FL 32301

Phone: (850) 224-3907

Proponent of Strike All Amendment #443247

Polivka-West, Lumarie (Lobbyist) - Proponent

Florida Health Care Association

307 W. Park Ave.

Tallahassee FL 32301

Phone: (850) 224-3907

Anderson, Susan (Lobbyist) (State Employee) - Waive In Support

Department of Elder Affairs, Long-Term Care Ombudsman Program

4040 Esplanade Way, Ste. 280

Tallahassee FL 32309

Phone: 850)414-2054

**Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM**



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health & Human Services  
 2 Committee

3 Representative Roberson, K. offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 400.0060, Florida Statutes, is amended  
 8 to read:

9 400.0060 Definitions.—When used in this part, unless the  
 10 context clearly dictates otherwise, the term:

11 (1) "Administrative assessment" means a review of  
 12 conditions in a long-term care facility which impact the rights,  
 13 health, safety, and welfare of residents with the purpose of  
 14 noting needed improvement and making recommendations to enhance  
 15 the quality of life for residents.

16 (2) "Agency" means the Agency for Health Care  
 17 Administration.

18 (3) "Department" means the Department of Elderly Affairs.

19 (4) "District" means a geographical area designated by the  
 20 state ombudsman in which individuals certified as ombudsmen





Amendment No.

21 carry out the duties of the state ombudsman program. "Local  
22 council" means a local long term care ombudsman council  
23 designated by the ombudsman pursuant to s. 400.0069. Local  
24 councils are also known as district long term care ombudsman  
25 councils or district councils.

26 (5) "Long-term care facility" means a nursing home  
27 facility, assisted living facility, adult family-care home,  
28 board and care facility, facility where continuing long-term  
29 care is provided, or any other similar residential adult care  
30 facility.

31 (6) "Office" means the Office of State Long-Term Care  
32 Ombudsman created by s. 400.0063.

33 (7) "Ombudsman" means an individual who has been certified  
34 by the state ombudsman as meeting the requirements of ss.  
35 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~  
36 ~~Secretary of Elderly Affairs to head the Office of State Long-~~  
37 ~~Term Care Ombudsman.~~

38 (8) "Representative of the office" means the state  
39 ombudsman, employees of the office, and individuals certified as  
40 ombudsmen.

41 ~~(9)-(8)~~ "Resident" means an individual 18 ~~60~~ years of age  
42 or older who resides in a long-term care facility.

43 ~~(10)-(9)~~ "Secretary" means the Secretary of Elderly  
44 Affairs.

45 ~~(11)-(10)~~ "State council" means the State Long-Term Care  
46 Ombudsman Council created by s. 400.0067.



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47       (12) "State ombudsman" means the individual appointed by  
48 the Secretary of Elderly Affairs to head the Office of State  
49 Long-Term Care Ombudsman.

50       (13) "State ombudsman program" means the program operating  
51 under the direction of the office.

52       Section 2. Section 400.0061, Florida Statutes, is amended  
53 to read:

54       400.0061 Legislative findings and intent; long-term care  
55 facilities.-

56       (1) The Legislature finds that conditions in long-term  
57 care facilities in this state are such that the rights, health,  
58 safety, and welfare of residents are not fully ensured by rules  
59 of the Department of Elderly Affairs or the Agency for Health  
60 Care Administration or by the good faith of owners or operators  
61 of long-term care facilities. Furthermore, there is a need for a  
62 formal mechanism whereby a long-term care facility resident, a  
63 representative of a long-term care facility resident, or any  
64 other concerned citizen may make a complaint against the  
65 facility or its employees, or against other persons who are in a  
66 position to restrict, interfere with, or threaten the rights,  
67 health, safety, or welfare of a long-term care facility  
68 resident. The Legislature finds that concerned citizens are  
69 often more effective advocates for the rights of others than  
70 governmental agencies. The Legislature further finds that in  
71 order to be eligible to receive an allotment of funds authorized  
72 and appropriated under the federal Older Americans Act, the  
73 state must establish and operate an Office of State Long-Term  
74 Care Ombudsman, to be headed by the state ~~Long-Term Care~~



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75 | ombudsman, and carry out a state ~~long term care~~ ombudsman  
76 | program.

77 | (2) It is the intent of the Legislature, therefore, to  
78 | utilize voluntary citizen ombudsmen ~~ombudsman councils~~ under the  
79 | leadership of the state ombudsman, and, through them, to operate  
80 | a state ~~an~~ ombudsman program, which shall, without interference  
81 | by any executive agency, undertake to discover, investigate, and  
82 | determine the presence of conditions or individuals that ~~which~~  
83 | constitute a threat to the rights, health, safety, or welfare of  
84 | the residents of long-term care facilities. To ensure that the  
85 | effectiveness and efficiency of such investigations are not  
86 | impeded by advance notice or delay, the Legislature intends that  
87 | representatives of the office ~~the ombudsman and ombudsman~~  
88 | ~~councils and their designated representatives~~ not be required to  
89 | obtain warrants in order to enter into or conduct investigations  
90 | or onsite administrative assessments of long-term care  
91 | facilities. It is the further intent of the Legislature that the  
92 | environment in long-term care facilities be conducive to the  
93 | dignity and independence of residents and that investigations by  
94 | representatives of the office ~~ombudsman councils~~ shall further  
95 | the enforcement of laws, rules, and regulations that safeguard  
96 | the health, safety, and welfare of residents.

97 | Section 3. Section 400.0063, Florida Statutes, is amended  
98 | to read:

99 | 400.0063 Establishment of Office of State Long-Term Care  
100 | Ombudsman; designation of ombudsman and legal advocate.—

101 | (1) There is created an Office of State Long-Term Care  
102 | Ombudsman in the Department of Elderly Affairs.



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103 (2) (a) The Office of State Long-Term Care Ombudsman shall  
104 be headed by the state ~~Long Term Care~~ ombudsman, who shall serve  
105 on a full-time basis and shall personally, or through  
106 representatives of the office, carry out the purposes and  
107 functions of the state ombudsman program office in accordance  
108 with state and federal law.

109 (b) The state ombudsman shall be appointed by and shall  
110 serve at the pleasure of the Secretary of Elderly Affairs. The  
111 secretary shall appoint a person who has expertise and  
112 experience in the fields of long-term care and advocacy to serve  
113 as state ombudsman.

114 (3) (a) There is created in the office the position of  
115 legal advocate, who shall be selected by and serve at the  
116 pleasure of the state ombudsman and shall be a member in good  
117 standing of The Florida Bar.

118 (b) The duties of the legal advocate shall include, but  
119 not be limited to:

120 1. Assisting the state ombudsman in carrying out the  
121 duties of the office with respect to the abuse, neglect,  
122 exploitation, or violation of rights of residents of long-term  
123 care facilities.

124 2. Assisting the state council and representatives of the  
125 office ~~local councils~~ in carrying out their responsibilities  
126 under this part.

127 3. Pursuing administrative, legal, and other appropriate  
128 remedies on behalf of residents.

129 4. Serving as legal counsel to the state council and  
130 representatives of the office ~~local councils, or individual~~



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131 ~~members thereof~~, against whom any suit or other legal action is  
132 initiated in connection with the performance of the official  
133 duties of the state ombudsman program ~~councils or an individual~~  
134 ~~member~~.

135 Section 4. Section 400.0065, Florida Statutes, is amended  
136 to read:

137 400.0065 Office of State Long-Term Care Ombudsman; duties  
138 and responsibilities.—

139 (1) The purpose of the Office of State Long-Term Care  
140 Ombudsman shall be to:

141 (a) Identify, investigate, and resolve complaints made by  
142 or on behalf of residents of long-term care facilities relating  
143 to actions or omissions by providers or representatives of  
144 providers of long-term care services, other public or private  
145 agencies, guardians, or representative payees that may adversely  
146 affect the health, safety, welfare, or rights of the residents.

147 (b) Provide services that assist in protecting the health,  
148 safety, welfare, and rights of residents.

149 (c) Inform residents, their representatives, and other  
150 citizens about obtaining the services of the state ~~Long-Term~~  
151 ~~Care~~ ombudsman program and its representatives.

152 (d) Ensure that residents have regular and timely access  
153 to the services provided through the office and that residents  
154 and complainants receive timely responses from representatives  
155 of the office to their complaints.

156 (e) Represent the interests of residents before  
157 governmental agencies and seek administrative, legal, and other



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158 remedies to protect the health, safety, welfare, and rights of  
159 the residents.

160 (f) Administer the state council ~~and local councils~~.

161 (g) Analyze, comment on, and monitor the development and  
162 implementation of federal, state, and local laws, rules, and  
163 regulations, and other governmental policies and actions, that  
164 pertain to the health, safety, welfare, and rights of the  
165 residents, with respect to the adequacy of long-term care  
166 facilities and services in the state, and recommend any changes  
167 in such laws, rules, regulations, policies, and actions as the  
168 office determines to be appropriate and necessary.

169 (h) Provide technical support for the development of  
170 resident and family councils to protect the well-being and  
171 rights of residents.

172 (2) The state ~~Long Term Care~~ ombudsman shall have the duty  
173 and authority to:

174 (a) Establish and coordinate districts ~~local councils~~  
175 throughout the state.

176 (b) Perform the duties specified in state and federal law,  
177 rules, and regulations.

178 (c) Within the limits of appropriated federal and state  
179 funding, employ such personnel as are necessary to perform  
180 adequately the functions of the office and provide or contract  
181 for legal services to assist the state council and  
182 representatives of the office ~~local councils~~ in the performance  
183 of their duties. ~~Staff positions established for the purpose of~~  
184 ~~coordinating the activities of each local council and assisting~~  
185 ~~its members may be filled by the ombudsman after approval by the~~



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186 ~~secretary. Notwithstanding any other provision of this part,~~  
187 ~~upon certification by the ombudsman that the staff member hired~~  
188 ~~to fill any such position has completed the initial training~~  
189 ~~required under s. 400.0091, such person shall be considered a~~  
190 ~~representative of the State Long Term Care Ombudsman Program for~~  
191 ~~purposes of this part.~~

192 (d) Contract for services necessary to carry out the  
193 activities of the office.

194 (e) Apply for, receive, and accept grants, gifts, or other  
195 payments, including, but not limited to, real property, personal  
196 property, and services from a governmental entity or other  
197 public or private entity or person, and make arrangements for  
198 the use of such grants, gifts, or payments.

199 (f) Coordinate, to the greatest extent possible, state and  
200 local ombudsman services with the protection and advocacy  
201 systems for individuals with developmental disabilities and  
202 mental illnesses and with legal assistance programs for the poor  
203 through adoption of memoranda of understanding and other means.

204 ~~(g) Enter into a cooperative agreement with the Statewide~~  
205 ~~Advocacy Council for the purpose of coordinating and avoiding~~  
206 ~~duplication of advocacy services provided to residents.~~

207 ~~(g)-(h)~~ Enter into a cooperative agreement with the  
208 Medicaid Fraud Division as prescribed under s. 731(e)(2)(B) of  
209 the Older Americans Act.

210 ~~(h)-(i)~~ Prepare an annual report describing the activities  
211 carried out by the office, the state council, and the districts  
212 ~~local councils~~ in the year for which the report is prepared. The  
213 state ombudsman shall submit the report to the secretary, the



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214 United States Assistant Secretary for Aging, the Governor, the  
215 President of the Senate, the Speaker of the House of  
216 Representatives, the Secretary of Children and Families, and the  
217 Secretary of Health Care Administration at least 30 days before  
218 the convening of the regular session of the Legislature. ~~The~~  
219 ~~secretary shall in turn submit the report to the United States~~  
220 ~~Assistant Secretary for Aging, the Governor, the President of~~  
221 ~~the Senate, the Speaker of the House of Representatives, the~~  
222 ~~Secretary of Children and Family Services, and the Secretary of~~  
223 ~~Health Care Administration.~~ The report shall, at a minimum:

224 1. Contain and analyze data collected concerning  
225 complaints about and conditions in long-term care facilities and  
226 the disposition of such complaints.

227 2. Evaluate the problems experienced by residents.

228 3. Analyze the successes of the state ombudsman program  
229 during the preceding year, including an assessment of how  
230 successfully the office ~~program~~ has carried out its  
231 responsibilities under the Older Americans Act.

232 4. Provide recommendations for policy, regulatory, and  
233 statutory changes designed to solve identified problems; resolve  
234 residents' complaints; improve residents' lives and quality of  
235 care; protect residents' rights, health, safety, and welfare;  
236 and remove any barriers to the optimal operation of the state  
237 ~~Long-Term Care~~ ombudsman program.

238 5. Contain recommendations from the state ~~Long-Term Care~~  
239 ~~Ombudsman~~ council regarding program functions and activities and  
240 recommendations for policy, regulatory, and statutory changes





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241 designed to protect residents' rights, health, safety, and  
242 welfare.

243 6. Contain any relevant recommendations from  
244 representatives of the office ~~the local councils~~ regarding  
245 program functions and activities.

246 Section 5. Section 400.0067, Florida Statutes, is amended  
247 to read:

248 400.0067 State Long-Term Care Ombudsman Council; duties;  
249 membership.—

250 (1) There is created, within the Office of State Long-Term  
251 Care Ombudsman, the State Long-Term Care Ombudsman Council.

252 (2) The state ~~Long-Term Care Ombudsman~~ council shall:

253 (a) Serve as an advisory body to assist the state  
254 ombudsman in reaching a consensus among districts ~~local councils~~  
255 on issues affecting residents and impacting the optimal  
256 operation of the program.

257 (b) Serve as an appellate body in receiving from the  
258 districts ~~local councils~~ complaints not resolved at the district  
259 ~~local~~ level. Any individual member or members of the state  
260 council may enter any long-term care facility involved in an  
261 appeal, pursuant to the conditions specified in s. 400.0074(2).

262 (c) Assist the state ombudsman to discover, investigate,  
263 and determine the existence of abuse or neglect in any long-term  
264 care facility, and work with the adult protective services  
265 program as required in ss. 415.101-415.113.

266 (d) Assist the state ombudsman in eliciting, receiving,  
267 responding to, and resolving complaints made by or on behalf of  
268 residents.



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269 (e) Elicit and coordinate state, district local, and  
270 voluntary organizational assistance for the purpose of improving  
271 the care received by residents.

272 (f) Assist the state ombudsman in preparing the annual  
273 report described in s. 400.0065.

274 (3) The state ~~Long Term Care Ombudsman~~ council shall be  
275 composed of one active certified ombudsman from each district  
276 ~~local council member elected by each local council~~ plus three  
277 at-large members appointed by the secretary Governor.

278 (a) Each district manager, in consultation with the  
279 district ombudsmen, local council shall select a district  
280 ombudsman ~~elect by majority vote a representative from among the~~  
281 ~~council members~~ to represent the interests of the district local  
282 ~~council~~ on the state council. ~~A local council chair may not~~  
283 ~~serve as the representative of the local council on the state~~  
284 ~~council.~~

285 (b)1. The state ombudsman secretary, after consulting with  
286 ~~the ombudsman,~~ shall submit to the secretary Governor a list of  
287 individuals persons recommended for appointment to the at-large  
288 positions on the state council. The list shall not include the  
289 name of any person who is currently serving in a district on a  
290 ~~local council.~~

291 2. The secretary Governor shall appoint three at-large  
292 members chosen from the list.

293 3. If the secretary Governor does not appoint an at-large  
294 member to fill a vacant position within 60 days after the list  
295 is submitted, the ~~secretary, after consulting with the state~~



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296 ombudsman, shall appoint an at-large member to fill that vacant  
297 position.

298 ~~(4) (a)-(e)1.~~ All State council members shall serve 3-year  
299 terms.

300 2.—A member of the state council may not serve more than  
301 two consecutive terms.

302 ~~(b)3.~~ A district manager, in consultation with the  
303 district ombudsmen, local council may recommend replacement  
304 removal of its selected ombudsman ~~elected representative~~ from  
305 the state council ~~majority vote~~. If the district manager, in  
306 consultation with the district ombudsmen, selects a replacement  
307 ombudsman, council votes to remove its representative, the local  
308 council chair shall immediately notify the state ombudsman must  
309 be notified. ~~The secretary shall advise the Governor of the~~  
310 ~~local council's vote upon receiving notice from the ombudsman.~~

311 ~~(c)4.~~ The position of any member missing three state  
312 council meetings within a 1-year period without cause may be  
313 declared vacant by the state ombudsman. The findings of the  
314 state ombudsman regarding cause shall be final and binding.

315 ~~(d)5.~~ Any vacancy on the state council shall be filled in  
316 the same manner as the original appointment.

317 ~~(e)-(d)1.~~ The state council shall elect a chair to serve  
318 for a term of 1 year. A chair may not serve more than two  
319 consecutive terms.

320 2. The chair shall select a vice chair from among the  
321 members. The vice chair shall preside over the state council in  
322 the absence of the chair.



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323 3. The chair may create additional executive positions as  
324 necessary to carry out the duties of the state council. Any  
325 person appointed to an executive position shall serve at the  
326 pleasure of the chair, and his or her term shall expire on the  
327 same day as the term of the chair.

328 4. A chair may be immediately removed from office prior to  
329 the expiration of his or her term by a vote of two-thirds of all  
330 state council members present at any meeting at which a quorum  
331 is present. If a chair is removed from office prior to the  
332 expiration of his or her term, a replacement chair shall be  
333 chosen during the same meeting in the same manner as described  
334 in this paragraph, and the term of the replacement chair shall  
335 begin immediately. The replacement chair shall serve for the  
336 remainder of the term and is eligible to serve two subsequent  
337 consecutive terms.

338 ~~(f)~~(e)1. The state council shall meet upon the call of the  
339 chair or upon the call of the state ombudsman. The council shall  
340 meet at least quarterly but may meet more frequently as needed.

341 2. A quorum shall be considered present if more than 50  
342 percent of all active state council members are in attendance at  
343 the same meeting.

344 3. The state council may not vote on or otherwise make any  
345 decisions resulting in a recommendation that will directly  
346 impact the state council or any district ~~local council~~, outside  
347 of a publicly noticed meeting at which a quorum is present.

348 ~~(g)~~(f) Members shall receive no compensation but shall,  
349 with approval from the state ombudsman, be reimbursed for per  
350 diem and travel expenses as provided in s. 112.061.



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351 Section 6. Section 400.0069, Florida Statutes, is amended  
352 to read:

353 400.0069 ~~Local~~ Long-term care ombudsman districts  
354 ~~councils~~; duties; appointment membership.—

355 (1) (a) The state ombudsman shall designate districts ~~local~~  
356 ~~long term care ombudsman councils~~ to carry out the duties of the  
357 state Long Term Care ombudsman program ~~within local communities~~.  
358 Each district ~~local council~~ shall function under the direction  
359 of the state ombudsman.

360 (b) The state ombudsman shall ensure that there are  
361 representatives of the office ~~is at least one local council~~  
362 operating in each district ~~of the department's planning and~~  
363 ~~service areas. The ombudsman may create additional local~~  
364 ~~councils~~ as necessary to ensure that residents throughout the  
365 state have adequate access to state Long Term Care ombudsman  
366 program services. ~~The ombudsman, after approval from the~~  
367 ~~secretary, shall designate the jurisdictional boundaries of each~~  
368 ~~local council.~~

369 (2) The duties of the representatives of the office in the  
370 districts ~~local councils~~ are to:

371 (a) Provide services to assist in ~~Serve as a third party~~  
372 ~~mechanism for~~ protecting the health, safety, welfare, and ~~civil~~  
373 ~~and human~~ rights of residents.

374 (b) Discover, investigate, and determine the existence of  
375 abuse, ~~or~~ neglect, or exploitation using in any long term care  
376 ~~facility and to use~~ the procedures provided for in ss. 415.101-  
377 415.113 when applicable.



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378 (c) Identify ~~Elicit, receive, investigate, respond to,~~ and  
379 resolve complaints made by or on behalf of residents relating to  
380 actions or omissions by providers or representatives of  
381 providers of long-term care services, other public or private  
382 agencies, guardians, or representative payees that may adversely  
383 affect the health, safety, welfare, or rights of residents.

384 (d) Review and, if necessary, comment on all existing or  
385 proposed rules, regulations, and other governmental policies and  
386 actions relating to long-term care facilities that may  
387 potentially have an effect on the rights, health, safety, and  
388 welfare of residents.

389 (e) Review personal property and money accounts of  
390 residents who are receiving assistance under the Medicaid  
391 program pursuant to an investigation to obtain information  
392 regarding a specific complaint ~~or problem.~~

393 (f) Recommend that the state ombudsman and the legal  
394 advocate seek administrative, legal, and other remedies to  
395 protect the health, safety, welfare, and rights of ~~the~~  
396 residents.

397 (g) Provide technical assistance for the development of  
398 resident and family councils within long-term care facilities.

399 (h) ~~(g)~~ Carry out other activities that the state ombudsman  
400 determines to be appropriate.

401 (3) In order to carry out the duties specified in  
402 subsection (2), a representative of the office may ~~member of a~~  
403 ~~local council is authorized to~~ enter any long-term care facility  
404 without notice or without first obtaining a warrant; however,



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405 ~~subject to the provisions of s. 400.0074(2) may apply regarding~~  
406 ~~notice of a followup administrative assessment.~~

407 (4) Each district local council shall be composed of  
408 ombudsmen members whose primary residences are ~~residence is~~  
409 located within the boundaries of the district local council's  
410 jurisdiction.

411 (a) Upon good cause shown, the state ombudsman, in his or  
412 her sole discretion, may appoint an ombudsman to another  
413 district. The ombudsman shall strive to ensure that each local  
414 council include the following persons as members:

415 1. ~~At least one medical or osteopathic physician whose~~  
416 ~~practice includes or has included a substantial number of~~  
417 ~~geriatric patients and who may practice in a long term care~~  
418 ~~facility;~~

419 2. ~~At least one registered nurse who has geriatric~~  
420 ~~experience;~~

421 3. ~~At least one licensed pharmacist;~~

422 4. ~~At least one registered dietitian;~~

423 5. ~~At least six nursing home residents or representative~~  
424 ~~consumer advocates for nursing home residents;~~

425 6. ~~At least three residents of assisted living facilities~~  
426 ~~or adult family care homes or three representative consumer~~  
427 ~~advocates for alternative long term care facility residents;~~

428 7. ~~At least one attorney; and~~

429 8. ~~At least one professional social worker.~~

430 (b) The following individuals may not be appointed as  
431 ombudsmen:



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- 432        1. The owner or representative of a long-term care  
433 facility.
- 434        2. A provider or representative of a provider of long-term  
435 care services.
- 436        3. An employee of the agency.
- 437        4. An employee of the department, except for  
438 representatives of the office.
- 439        5. An employee of the Department of Children and Families.
- 440        6. An employee of the Agency for Persons with  
441 Disabilities. In no case shall the medical director of a long-  
442 term care facility or an employee of the agency, the department,  
443 the Department of Children and Family Services, or the Agency  
444 for Persons with Disabilities serve as a member or as an ex  
445 officio member of a council.
- 446        (5) (a) To be appointed as an ombudsman, an individual  
447 must:
- 448        1. Individuals wishing to join a local council shall  
449 submit an application to the state ombudsman or designee.
- 450        2. Successfully complete level 2 background screening  
451 pursuant to s. 430.0402 and chapter 435. The ombudsman shall  
452 review the individual's application and advise the secretary of  
453 his or her recommendation for approval or disapproval of the  
454 candidate's membership on the local council. If the secretary  
455 approves of the individual's membership, the individual shall be  
456 appointed as a member of the local council.
- 457        (b) The state ombudsman shall approve or deny the  
458 appointment of the individual as an ombudsman. The secretary may  
459 rescind the ombudsman's approval of a member on a local council





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460 ~~at any time. If the secretary rescinds the approval of a member~~  
461 ~~on a local council, the ombudsman shall ensure that the~~  
462 ~~individual is immediately removed from the local council on~~  
463 ~~which he or she serves and the individual may no longer~~  
464 ~~represent the State Long Term Care Ombudsman Program until the~~  
465 ~~secretary provides his or her approval.~~

466 (c) Upon appointment as an ombudsman, the individual may  
467 participate in district activities but may not represent the  
468 office or conduct any authorized program duties until the  
469 individual has completed the initial training specified in s.  
470 400.0091(1) and has been certified by the state ombudsman.

471 (d) The state ombudsman, for good cause shown such as  
472 development of a conflict of interest, failure to adhere to the  
473 policies and procedures established by the office, or  
474 demonstrated inability to carry out the responsibilities of the  
475 office, may rescind the appointment of an individual as an  
476 ombudsman. After rescinding the appointment, the individual may  
477 not conduct any duties as an ombudsman and may not represent the  
478 office or the state ombudsman program. A local council may  
479 ~~recommend the removal of one or more of its members by~~  
480 ~~submitting to the ombudsman a resolution adopted by a two thirds~~  
481 ~~vote of the members of the council stating the name of the~~  
482 ~~member or members recommended for removal and the reasons for~~  
483 ~~the recommendation. If such a recommendation is adopted by a~~  
484 ~~local council, the local council chair or district coordinator~~  
485 ~~shall immediately report the council's recommendation to the~~  
486 ~~ombudsman. The ombudsman shall review the recommendation of the~~  
487 ~~local council and advise the secretary of his or her~~



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488 ~~recommendation regarding removal of the council member or~~  
489 ~~members.~~

490 ~~(6)(a) Each local council shall elect a chair for a term~~  
491 ~~of 1 year. There shall be no limitation on the number of terms~~  
492 ~~that an approved member of a local council may serve as chair.~~

493 ~~(b) The chair shall select a vice chair from among the~~  
494 ~~members of the council. The vice chair shall preside over the~~  
495 ~~council in the absence of the chair.~~

496 ~~(c) The chair may create additional executive positions as~~  
497 ~~necessary to carry out the duties of the local council. Any~~  
498 ~~person appointed to an executive position shall serve at the~~  
499 ~~pleasure of the chair, and his or her term shall expire on the~~  
500 ~~same day as the term of the chair.~~

501 ~~(d) A chair may be immediately removed from office prior~~  
502 ~~to the expiration of his or her term by a vote of two thirds of~~  
503 ~~the members of the local council. If any chair is removed from~~  
504 ~~office prior to the expiration of his or her term, a replacement~~  
505 ~~chair shall be elected during the same meeting, and the term of~~  
506 ~~the replacement chair shall begin immediately. The replacement~~  
507 ~~chair shall serve for the remainder of the term of the person he~~  
508 ~~or she replaced.~~

509 ~~(7) Each local council shall meet upon the call of its~~  
510 ~~chair or upon the call of the ombudsman. Each local council~~  
511 ~~shall meet at least once a month but may meet more frequently if~~  
512 ~~necessary.~~

513 ~~(6)(8) An ombudsman A member of a local council shall~~  
514 ~~receive no compensation but shall, with approval from the state~~  
515 ~~ombudsman, be reimbursed for travel expenses both within and~~



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516 ~~outside the jurisdiction of the local council~~ in accordance with  
517 ~~the provisions of s. 112.061.~~

518 ~~(7)-(9)~~ The representatives of the office local councils  
519 are authorized to call upon appropriate state agencies ~~of state~~  
520 ~~government~~ for such professional assistance as ~~may be~~ needed in  
521 the discharge of their duties, and such. ~~All~~ state agencies  
522 shall cooperate ~~with the local councils~~ in providing requested  
523 information and agency representation ~~at council meetings.~~

524 Section 7. Section 400.0070, Florida Statutes, is amended  
525 to read:

526 400.0070 Conflicts of interest.—

527 (1) A representative of the office ~~The ombudsman~~ shall  
528 not:

529 (a) Have a direct involvement in the licensing or  
530 certification of, or an ownership or investment interest in, a  
531 long-term care facility or a provider of a long-term care  
532 service.

533 (b) Be employed by, or participate in the management of, a  
534 long-term care facility.

535 (c) Receive, or have a right to receive, directly or  
536 indirectly, remuneration, in cash or in kind, under a  
537 compensation agreement with the owner or operator of a long-term  
538 care facility.

539 (2) Each representative ~~employee~~ of the office, ~~each state~~  
540 ~~council member, and each local council member~~ shall certify that  
541 he or she has no conflict of interest.

542 (3) The department, in consultation with the state  
543 ombudsman, shall define by rule:



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544 (a) Situations that constitute an individual's ~~a person~~  
545 having a conflict of interest that could materially affect the  
546 objectivity or capacity of the individual ~~a person~~ to serve as a  
547 representative on an ombudsman council, or as an employee of the  
548 office, ~~while carrying out the purposes of the State Long Term~~  
549 ~~Care Ombudsman Program as specified in this part.~~

550 (b) The procedure by which an individual ~~a person~~ listed  
551 in subsection (2) shall certify that he or she has no conflict  
552 of interest.

553 Section 8. Section 400.0071, Florida Statutes, is amended  
554 to read:

555 400.0071 ~~State Long Term Care~~ ombudsman program complaint  
556 procedures.—The department, in consultation with the state  
557 ombudsman, shall adopt rules implementing state and local  
558 complaint procedures. The rules must include procedures for  
559 receiving, investigating, identifying, and resolving complaints  
560 concerning the health, safety, welfare, and rights of residents—

561 ~~(1) Receiving complaints against a long term care facility~~  
562 ~~or an employee of a long term care facility.~~

563 ~~(2) Conducting investigations of a long term care facility~~  
564 ~~or an employee of a long term care facility subsequent to~~  
565 ~~receiving a complaint.~~

566 ~~(3) Conducting onsite administrative assessments of long~~  
567 ~~term care facilities.~~

568 Section 9. Section 400.0073, Florida Statutes, is amended  
569 to read:

570 400.0073 Complaint ~~State and local ombudsman council~~  
571 investigations.—



Amendment No.

572 (1) A representative of the office local council shall  
573 identify and investigate, ~~within a reasonable time after a~~  
574 ~~complaint is made~~, any complaint made by or on behalf of a  
575 resident that, ~~a representative of a resident, or any other~~  
576 ~~credible source based on an action or omission by an~~  
577 ~~administrator, an employee, or a representative of a long term~~  
578 ~~care facility which might be:~~

- 579 (a) Contrary to law;
- 580 (b) Unreasonable, unfair, oppressive, or unnecessarily  
581 discriminatory, even though in accordance with law;
- 582 (c) Based on a mistake of fact;
- 583 (d) Based on improper or irrelevant grounds;
- 584 (e) Unaccompanied by an adequate statement of reasons;
- 585 (f) Performed in an inefficient manner; or
- 586 (g) Otherwise adversely affecting the health, safety,  
587 welfare, or rights of a resident.

588 ~~(2) In an investigation, both the state and local councils~~  
589 ~~have the authority to hold public hearings.~~

590 ~~(3) Subsequent to an appeal from a local council, the~~  
591 ~~state council may investigate any complaint received by the~~  
592 ~~local council involving a long term care facility or a resident.~~

593 (2)(4) If a representative of the office the ombudsman or  
594 ~~any state or local council member~~ is not allowed to enter a  
595 long-term care facility, the administrator of the facility shall  
596 be considered to have interfered with a representative of the  
597 office, ~~the state council, or the local council~~ in the  
598 performance of official duties as described in s. 400.0083(1)  
599 and to have committed a violation of this part. The



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600 representative of the office ombudsman shall report a facility's  
601 refusal to allow entry to the facility to the state ombudsman or  
602 designee, who shall then report the incident to the agency, and  
603 the agency shall record the report and take it into  
604 consideration when determining actions allowable under s.  
605 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.  
606 429.71.

607 Section 10. Section 400.0074, Florida Statutes, is amended  
608 to read:

609 400.0074 ~~Local ombudsman council~~ Onsite administrative  
610 assessments.-

611 (1) Representatives of the office must ~~In addition to any~~  
612 ~~specific investigation conducted pursuant to a complaint, the~~  
613 ~~local council shall~~ conduct, at least annually, an onsite  
614 administrative assessment of each nursing home, assisted living  
615 facility, and adult family-care home ~~within its jurisdiction.~~  
616 This administrative assessment must be resident-centered and  
617 must shall focus on factors affecting the rights, health,  
618 safety, and welfare of the residents. ~~Each local council is~~  
619 ~~encouraged to conduct a similar onsite administrative assessment~~  
620 ~~of each additional long term care facility within its~~  
621 ~~jurisdiction.~~

622 (2) An onsite administrative assessment is ~~conducted by a~~  
623 ~~local council shall~~ be subject to the following conditions:

624 (a) To the extent possible and reasonable, the  
625 administrative assessment ~~assessments~~ shall not duplicate the  
626 efforts of ~~the agency~~ surveys and inspections conducted by state



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627 agencies in long-term care facilities ~~under part II of this~~  
628 ~~chapter and parts I and II of chapter 429.~~

629 (b) An administrative assessment shall be conducted at a  
630 time and for a duration necessary to produce the information  
631 required to complete the assessment ~~carry out the duties of the~~  
632 ~~local council.~~

633 (c) Advance notice of an administrative assessment may not  
634 be provided to a long-term care facility, except that notice of  
635 followup assessments on specific problems may be provided.

636 (d) A representative of the office ~~local council member~~  
637 ~~physically~~ present for the administrative assessment must shall  
638 identify himself or herself to the administrator or designee ~~and~~  
639 ~~cite the specific statutory authority for his or her assessment~~  
640 of the facility.

641 (e) An administrative assessment may not unreasonably  
642 interfere with the programs and activities of residents.

643 (f) A representative of the office ~~local council member~~  
644 may not enter a single-family residential unit within a long-  
645 term care facility during an administrative assessment without  
646 the permission of the resident or the representative of the  
647 resident.

648 (g) An administrative assessment must be conducted in a  
649 manner that will impose no unreasonable burden on a long-term  
650 care facility.

651 ~~(3) Regardless of jurisdiction, the ombudsman may~~  
652 ~~authorize a state or local council member to assist another~~  
653 ~~local council to perform the administrative assessments~~  
654 ~~described in this section.~~



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655           (3)~~(4)~~ An onsite administrative assessment may not be  
656 accomplished by forcible entry. However, if a representative of  
657 the office ombudsman or a state or local council member is not  
658 allowed to enter a long-term care facility, the administrator of  
659 the facility shall be considered to have interfered with a  
660 representative of the office, ~~the state council, or the local~~  
661 ~~council~~ in the performance of official duties as described in s.  
662 400.0083(1) and to have committed a violation of this part. The  
663 representative of the office ombudsman shall report the refusal  
664 by a facility to allow entry to the state ombudsman or designee,  
665 who shall then report the incident to the agency, and the agency  
666 shall record the report and take it into consideration when  
667 determining actions allowable under s. 400.102, s. 400.121, s.  
668 429.14, s. 429.19, s. 429.69, or s. 429.71.

669           (4) The department, in consultation with the state  
670 ombudsman, may adopt rules implementing procedures for  
671 conducting onsite administrative assessments of long-term care  
672 facilities.

673           Section 11. Section 400.0075, Florida Statutes, is amended  
674 to read:

675           400.0075 Complaint notification and resolution  
676 procedures.-

677           (1)(a) Any complaint ~~or problem~~ verified by a  
678 representative of the office an ombudsman council as a result of  
679 an investigation may or onsite administrative assessment, which  
680 ~~complaint or problem is determined to require remedial action by~~  
681 ~~the local council,~~ shall be identified and brought to the  
682 attention of the long-term care facility administrator subject





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683 to the confidentiality provisions of s. 400.0077 in writing.  
684 Upon receipt of the information such document, the  
685 administrator, with the concurrence of the representative of the  
686 office local council chair, shall establish target dates for  
687 taking appropriate remedial action. If, by the target date, the  
688 remedial action is not completed or forthcoming, the  
689 representative may extend the target date if there is reason to  
690 believe such action would facilitate the resolution of the  
691 complaint or the representative may refer the complaint to the  
692 district manager local council chair may, after obtaining  
693 approval from the ombudsman and a majority of the members of the  
694 local council.

695 1. ~~Extend the target date if the chair has reason to~~  
696 ~~believe such action would facilitate the resolution of the~~  
697 ~~complaint.~~

698 2. ~~In accordance with s. 400.0077, publicize the~~  
699 ~~complaint, the recommendations of the council, and the response~~  
700 ~~of the long term care facility.~~

701 3. ~~Refer the complaint to the state council.~~

702 (b) If an ombudsman determines the local council chair  
703 believes that the health, safety, welfare, or rights of a the  
704 resident are in imminent danger, the ombudsman must immediately  
705 notify the district manager. The district manager chair shall  
706 notify the ombudsman or legal advocate, who, after verifying  
707 that such imminent danger exists, must notify the appropriate  
708 state agencies, including law enforcement, the state ombudsman,  
709 and legal advocate to ensure the protection of shall seek



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710 ~~immediate legal or administrative remedies to protect the~~  
711 resident.

712 (c) If the state ombudsman or legal advocate has reason to  
713 believe that the long-term care facility or an employee of the  
714 facility has committed a criminal act, the state ombudsman or  
715 legal advocate shall provide the local law enforcement agency  
716 with the relevant information to initiate an investigation of  
717 the case.

718 (2)~~(a)~~ Upon referral from a district local council, the  
719 state ombudsman or designee council shall assume the  
720 responsibility for the disposition of the complaint. If a long-  
721 term care facility fails to take action to resolve or remedy the  
722 ~~on a complaint by the state council~~, the state ombudsman council  
723 ~~may, after obtaining approval from the ombudsman and a majority~~  
724 ~~of the state council members:~~

725 (a)1- In accordance with s. 400.0077, publicize the  
726 complaint, the recommendations of the representatives of the  
727 office local or state council, and the response of the long-term  
728 care facility.

729 (b)2- Recommend to the department and the agency a series  
730 of facility reviews pursuant to s. 400.19, s. 429.34, or s.  
731 429.67 to ensure correction and nonrecurrence of the conditions  
732 that gave give rise to the complaint complaints against the a  
733 long-term care facility.

734 (c)3- Recommend to the department and the agency that the  
735 long-term care facility no longer receive payments under any  
736 state assistance program, including Medicaid.



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737        ~~(d)4.~~ Recommend to the department and the agency that  
738 procedures be initiated for action against ~~revocation of~~ the  
739 long-term care facility's license in accordance with chapter  
740 120.

741        ~~(b) If the state council chair believes that the health,~~  
742 ~~safety, welfare, or rights of the resident are in imminent~~  
743 ~~danger, the chair shall notify the ombudsman or legal advocate,~~  
744 ~~who, after verifying that such imminent danger exists, shall~~  
745 ~~seek immediate legal or administrative remedies to protect the~~  
746 ~~resident.~~

747        (c) If the state ombudsman, after consultation with the  
748 legal advocate, has reason to believe that the long-term care  
749 facility or an employee of the facility has committed a criminal  
750 act, the office ombudsman shall provide local law enforcement  
751 with the relevant information to initiate an investigation of  
752 the case.

753        Section 12. Section 400.0078, Florida Statutes, is amended  
754 to read:

755        400.0078 Citizen access to state ~~Long Term Care~~ ombudsman  
756 program services.-

757        (1) The office shall establish a statewide toll-free  
758 telephone number and e-mail address for receiving complaints  
759 concerning matters adversely affecting the health, safety,  
760 welfare, or rights of residents.

761        (2) ~~Every resident or representative of a resident shall~~  
762 ~~receive,~~ Upon admission to a long-term care facility, each  
763 resident or representative of a resident must receive  
764 information regarding:



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765 (a) The purpose of the state ~~Long Term Care~~ ombudsman  
766 program.~~7~~

767 (b) The statewide toll-free telephone number and e-mail  
768 address for receiving complaints.~~7~~ and

769 (c) Information that retaliatory action cannot be taken  
770 against a resident for presenting grievances or for exercising  
771 any other resident rights.

772 (d) Other relevant information regarding how to contact  
773 representatives of the office program.

774

775 Residents or their representatives must be furnished additional  
776 copies of this information upon request.

777 Section 13. Section 400.0079, Florida Statutes, is amended  
778 to read:

779 400.0079 Immunity.—

780 (1) Any person making a complaint pursuant to this part  
781 who does so in good faith shall be immune from any liability,  
782 civil or criminal, that otherwise might be incurred or imposed  
783 as a direct or indirect result of making the complaint.

784 (2) Representatives of the office and ~~The ombudsman or any~~  
785 ~~person authorized by the ombudsman to act on behalf of the~~  
786 ~~office, as well as all members of the state council and local~~  
787 ~~councils,~~ shall be immune from any liability, civil or criminal,  
788 that otherwise might be incurred or imposed during the good  
789 faith performance of official duties.

790 Section 14. Section 400.0081, Florida Statutes, is amended  
791 to read:

792 400.0081 Access to facilities, residents, and records.—



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793 (1) A long-term care facility shall provide  
794 representatives of the office with , ~~the state council and its~~  
795 ~~members, and the local councils and their members access to:~~

796 (a) Access to Any portion of the long-term care facility  
797 and ~~any residents as necessary to investigate or resolve a~~  
798 ~~complaint.~~

799 (b) Appropriate access to mMedical and social records of a  
800 resident for review ~~as necessary to investigate or resolve a~~  
801 ~~complaint, if:~~

802 1. The representative of the office has the permission of  
803 the resident or the legal representative of the resident; or

804 2. The resident is unable to consent to the review and has  
805 no legal representative.

806 (c) Medical and social records of the resident as  
807 ~~necessary to investigate or resolve a complaint, if:~~

808 1. A legal representative or guardian of the resident  
809 refuses to give permission;

810 2. A representative of the office has reasonable cause to  
811 believe that the legal representative or guardian is not acting  
812 in the best interests of the resident; and

813 3. The representative of the office ~~state or local council~~  
814 ~~member~~ obtains the approval of the state ombudsman.

815 (d) The administrative records, policies, and documents to  
816 which residents or the general public have access.

817 (e) Upon request, copies of all licensing and  
818 certification records maintained by the state with respect to a  
819 long-term care facility.



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820 (2) The department, in consultation with the state  
821 ombudsman ~~and the state council~~, may adopt rules to establish  
822 procedures to ensure access to facilities, residents, and  
823 records as described in this section.

824 Section 15. Section 400.0083, Florida Statutes, is amended  
825 to read:

826 400.0083 Interference; retaliation; penalties.—

827 (1) It shall be unlawful for any person, long-term care  
828 facility, or other entity to willfully interfere with a  
829 representative of the office or, the state council, ~~or a local~~  
830 ~~council~~ in the performance of official duties.

831 (2) It shall be unlawful for any person, long-term care  
832 facility, or other entity to knowingly or willfully take action  
833 or retaliate against any resident, employee, or other person for  
834 filing a complaint with, providing information to, or otherwise  
835 cooperating with any representative of the office or, the state  
836 council, ~~or a local council~~.

837 (3) Any person, long-term care facility, or other entity  
838 that violates this section:

839 (a) Shall be liable for damages and equitable relief as  
840 determined by law.

841 (b) Commits a misdemeanor of the second degree, punishable  
842 as provided in s. 775.083.

843 Section 16. Section 400.0087, Florida Statutes, is amended  
844 to read:

845 400.0087 Department oversight; funding.—



Amendment No.

846 (1) The department shall meet the costs associated with  
847 the state ~~Long Term Care~~ ombudsman program from funds  
848 appropriated to it.

849 (a) The department shall include the costs associated with  
850 support of the state ~~Long Term Care~~ ombudsman program when  
851 developing its budget requests for consideration by the Governor  
852 and submittal to the Legislature.

853 (b) The department may divert from the federal ombudsman  
854 appropriation an amount equal to the department's administrative  
855 cost ratio to cover the costs associated with administering the  
856 state ombudsman program. The remaining allotment from the Older  
857 Americans Act program shall be expended on direct ombudsman  
858 activities.

859 (2) The department shall monitor the office and, the state  
860 council, ~~and the local councils~~ to ensure that each is carrying  
861 out the duties delegated to it by state and federal law.

862 (3) The department is responsible for ensuring that the  
863 office:

864 (a) Has the objectivity and independence required to  
865 qualify it for funding under the federal Older Americans Act.

866 (b) Provides information to public and private agencies,  
867 legislators, and others.

868 (c) Provides appropriate training to representatives of  
869 the office ~~or of the state or local councils~~.

870 (d) Coordinates ombudsman services with Disability Rights  
871 Florida ~~the Advocacy Center for Persons with Disabilities~~ and  
872 with providers of legal services to residents ~~of long term care~~  
873 ~~facilities~~ in compliance with state and federal laws.



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874 (4) The department shall also:

875 (a) Receive and disburse state and federal funds for  
876 purposes that the state ombudsman has formulated in accordance  
877 with the Older Americans Act.

878 (b) Whenever necessary, act as liaison between agencies  
879 and branches of the federal and state governments and the office  
880 ~~State Long Term Care Ombudsman Program.~~

881 Section 17. Section 400.0089, Florida Statutes, is amended  
882 to read:

883 400.0089 Complaint data reports.—The office shall maintain  
884 a statewide uniform reporting system to collect and analyze data  
885 relating to complaints and conditions in long-term care  
886 facilities and to residents for the purpose of identifying and  
887 resolving significant complaints ~~problems~~. The office shall  
888 publish quarterly and make readily available information  
889 pertaining to the number and types of complaints received by the  
890 state ~~Long Term Care~~ ombudsman program and shall include such  
891 information in the annual report required under s. 400.0065.

892 Section 18. Section 400.0091, Florida Statutes, is amended  
893 to read:

894 400.0091 Training.—The state ombudsman shall ensure that  
895 appropriate training is provided to all representatives  
896 ~~employees of the office and to the members of the state and~~  
897 ~~local councils.~~

898 (1) All representatives ~~state and local council members~~  
899 ~~and employees~~ of the office shall be given a minimum of 20 hours  
900 of training upon employment with the office or appointment as an  
901 ombudsman. ~~Ten approval as a state or local council member and~~





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902 ~~10~~ hours of continuing education is required annually  
903 thereafter.

904 (2) The state ombudsman shall approve the curriculum for  
905 the initial and continuing education training, which must, at a  
906 minimum, address:

907 (a) Resident confidentiality.

908 (b) Guardianships and powers of attorney.

909 (c) Medication administration.

910 (d) Care and medication of residents with dementia and  
911 Alzheimer's disease.

912 (e) Accounting for residents' funds.

913 (f) Discharge rights and responsibilities.

914 (g) Cultural sensitivity.

915 (h) Any other topic related to residency within a long-  
916 term care facility recommended by the secretary.

917 (3) An individual ~~No employee, officer, or representative~~  
918 ~~of the office or of the state or local councils,~~ other than the  
919 state ombudsman, may not hold himself or herself out as a  
920 representative of the office ~~State Long Term Care Ombudsman~~  
921 ~~Program~~ or conduct any authorized program duty described in this  
922 part unless the individual ~~person~~ has received the training  
923 required by this section and has been certified by the state  
924 ombudsman as qualified to carry out ombudsman activities on  
925 behalf of the office ~~or the state or local councils.~~

926 Section 19. Subsection (4) of section 20.41, Florida  
927 Statutes, is amended to read:

928 20.41 Department of Elderly Affairs.—There is created a  
929 Department of Elderly Affairs.



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930 (4) The department shall administer the Office of State  
931 Long-Term Care Ombudsman Council, created by s. 400.0063  
932 ~~400.0067, and the local long term care ombudsman councils,~~  
933 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the  
934 federal Older Americans Act of 1965, ensure that ~~both~~ the state  
935 office operates and ~~local long term care ombudsman councils~~  
936 ~~operate~~ in compliance with the Older Americans Act.

937 Section 20. Subsections (11) through (19) of section  
938 400.021, Florida Statutes, are renumbered as subsections (10)  
939 through (18), respectively, and present subsections (10) and  
940 (18) are amended to read:

941 400.021 Definitions.—When used in this part, unless the  
942 context otherwise requires, the term:

943 ~~(10) "Local ombudsman council" means a local long term~~  
944 ~~care ombudsman council established pursuant to s. 400.0069,~~  
945 ~~located within the Older Americans Act planning and service~~  
946 ~~areas.~~

947 ~~(17)(18)~~ "State ombudsman program council" means the  
948 Office of State Long-Term Care Ombudsman Council established  
949 pursuant to s. 400.0063 ~~400.0067~~.

950 Section 21. Paragraph (c) of subsection (1) and  
951 subsections (2) and (3) of section 400.022, Florida Statutes,  
952 are amended to read:

953 400.022 Residents' rights.—

954 (1) All licensees of nursing home facilities shall adopt  
955 and make public a statement of the rights and responsibilities  
956 of the residents of such facilities and shall treat such



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957 residents in accordance with the provisions of that statement.

958 The statement shall assure each resident the following:

959 (c) Any entity or individual that provides health, social,  
960 legal, or other services to a resident has the right to have  
961 reasonable access to the resident. The resident has the right to  
962 deny or withdraw consent to access at any time by any entity or  
963 individual. Notwithstanding the visiting policy of the facility,  
964 the following individuals must be permitted immediate access to  
965 the resident:

966 1. Any representative of the federal or state government,  
967 including, but not limited to, representatives of the Department  
968 of Children and Family Services, the Department of Health, the  
969 Agency for Health Care Administration, the Office of the  
970 Attorney General, and the Department of Elderly Affairs; any law  
971 enforcement officer; representatives ~~members~~ of the state ~~or~~  
972 ~~local~~ ombudsman program ~~council~~; and the resident's individual  
973 physician.

974 2. Subject to the resident's right to deny or withdraw  
975 consent, immediate family or other relatives of the resident.

976

977 The facility must allow representatives of the state ~~Long-Term~~  
978 ~~Care~~ ombudsman program ~~Council~~ to examine a resident's clinical  
979 records with the permission of the resident or the resident's  
980 legal representative and consistent with state law.

981 (2) The licensee for each nursing home shall orally inform  
982 the resident of the resident's rights and provide a copy of the  
983 statement required by subsection (1) to each resident or the  
984 resident's legal representative at or before the resident's



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985 admission to a facility. The licensee shall provide a copy of  
986 the resident's rights to each staff member of the facility. Each  
987 such licensee shall prepare a written plan and provide  
988 appropriate staff training to implement ~~the provisions of this~~  
989 section. The written statement of rights must include a  
990 statement that a resident may file a complaint with the agency  
991 or state local ombudsman program council. The statement must be  
992 in boldfaced type and shall include the ~~name, address, and~~  
993 telephone number and e-mail address of the state numbers of the  
994 ~~local ombudsman program council~~ and the telephone number of the  
995 central abuse hotline where complaints may be lodged.

996 (3) Any violation of the resident's rights set forth in  
997 this section shall constitute grounds for action by the agency  
998 under ~~the provisions of~~ s. 400.102, s. 400.121, or part II of  
999 chapter 408. In order to determine whether the licensee is  
1000 adequately protecting residents' rights, the licensure  
1001 inspection of the facility shall include private informal  
1002 conversations with a sample of residents to discuss residents'  
1003 experiences within the facility with respect to rights specified  
1004 in this section and general compliance with standards, and  
1005 consultation with the state ombudsman program council ~~in the~~  
1006 ~~local planning and service area of the Department of Elderly~~  
1007 ~~Affairs in which the nursing home is located.~~

1008 Section 22. Subsections (8) and (9) and (11) through (14)  
1009 of section 400.0255, Florida Statutes, are amended to read:

1010 400.0255 Resident transfer or discharge; requirements and  
1011 procedures; hearings.-



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1012 (8) The notice required by subsection (7) must be in  
1013 writing and must contain all information required by state and  
1014 federal law, rules, or regulations applicable to Medicaid or  
1015 Medicare cases. The agency shall develop a standard document to  
1016 be used by all facilities licensed under this part for purposes  
1017 of notifying residents of a discharge or transfer. Such document  
1018 must include a means for a resident to request the state local  
1019 ~~long-term care~~ ombudsman program council to review the notice  
1020 and request information about or assistance with initiating a  
1021 fair hearing with the department's Office of Appeals Hearings.  
1022 In addition to any other pertinent information included, the  
1023 form shall specify the reason allowed under federal or state law  
1024 that the resident is being discharged or transferred, with an  
1025 explanation to support this action. Further, the form shall  
1026 state the effective date of the discharge or transfer and the  
1027 location to which the resident is being discharged or  
1028 transferred. The form shall clearly describe the resident's  
1029 appeal rights and the procedures for filing an appeal, including  
1030 the right to request the state local ombudsman program council  
1031 to review the notice of discharge or transfer. A copy of the  
1032 notice must be placed in the resident's clinical record, and a  
1033 copy must be transmitted to the resident's legal guardian or  
1034 representative and to the state local ombudsman program council  
1035 within 5 business days after signature by the resident or  
1036 resident designee.

1037 (9) A resident may request that the state local ombudsman  
1038 program council review any notice of discharge or transfer given  
1039 to the resident. When requested by a resident to review a notice



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1040 of discharge or transfer, the state local ombudsman program  
1041 ~~council~~ shall do so within 7 days after receipt of the request.  
1042 The nursing home administrator, or the administrator's designee,  
1043 must forward the request for review contained in the notice to  
1044 the state local ombudsman program ~~council~~ within 24 hours after  
1045 such request is submitted. Failure to forward the request within  
1046 24 hours after the request is submitted shall toll the running  
1047 of the 30-day advance notice period until the request has been  
1048 forwarded.

1049 (11) Notwithstanding paragraph (10)(b), an emergency  
1050 discharge or transfer may be implemented as necessary pursuant  
1051 to state or federal law during the period of time after the  
1052 notice is given and before the time a hearing decision is  
1053 rendered. Notice of an emergency discharge or transfer to the  
1054 resident, the resident's legal guardian or representative, and  
1055 the state local ombudsman program ~~council~~ if requested pursuant  
1056 to subsection (9) must be by telephone or in person. This notice  
1057 shall be given before the transfer, if possible, or as soon  
1058 thereafter as practicable. A representative of the state local  
1059 ombudsman program ~~council~~ conducting a review under this  
1060 subsection shall do so within 24 hours after receipt of the  
1061 request. The resident's file must be documented to show who was  
1062 contacted, whether the contact was by telephone or in person,  
1063 and the date and time of the contact. If the notice is not given  
1064 in writing, written notice meeting the requirements of  
1065 subsection (8) must be given the next working day.

1066 (12) After receipt of any notice required under this  
1067 section, the state local ombudsman program ~~council~~ may request a



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1068 private informal conversation with a resident to whom the notice  
1069 is directed, and, if known, a family member or the resident's  
1070 legal guardian or designee, to ensure that the facility is  
1071 proceeding with the discharge or transfer in accordance with ~~the~~  
1072 ~~requirements of~~ this section. If requested, the state local  
1073 ombudsman program council shall assist the resident with filing  
1074 an appeal of the proposed discharge or transfer.

1075 (13) The following persons must be present at all hearings  
1076 authorized under this section:

1077 (a) The resident, or the resident's legal representative  
1078 or designee.

1079 (b) The facility administrator, or the facility's legal  
1080 representative or designee.

1081  
1082 A representative of the state local long term care ombudsman  
1083 program council may be present at all hearings authorized by  
1084 this section.

1085 (14) In any hearing under this section, the following  
1086 information concerning the parties shall be confidential and  
1087 exempt from ~~the provisions of~~ s. 119.07(1):

1088 (a) Names and addresses.

1089 (b) Medical services provided.

1090 (c) Social and economic conditions or circumstances.

1091 (d) Evaluation of personal information.

1092 (e) Medical data, including diagnosis and past history of  
1093 disease or disability.

1094 (f) Any information received verifying income eligibility  
1095 and amount of medical assistance payments. Income information



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1096 received from the Social Security Administration or the Internal  
1097 Revenue Service must be safeguarded according to the  
1098 requirements of the agency that furnished the data.

1099  
1100 The exemption created by this subsection does not prohibit  
1101 access to such information by the state ombudsman program a  
1102 ~~local long term care ombudsman council~~ upon request, by a  
1103 reviewing court if such information is required to be part of  
1104 the record upon subsequent review, or as specified in s. 24(a),  
1105 Art. I of the State Constitution.

1106 Section 23. Subsection (2) of section 400.1413, Florida  
1107 Statutes, is amended to read:

1108 400.1413 Volunteers in nursing homes.-

1109 (2) This section does not affect the activities of the  
1110 ~~state or local long term care ombudsman program councils~~  
1111 authorized under part I.

1112 Section 24. Paragraph (d) of subsection (5) of section  
1113 400.162, Florida Statutes, is amended to read:

1114 400.162 Property and personal affairs of residents.-

1115 (5)

1116 (d) If, at any time during the period for which a license  
1117 is issued, a licensee that has not purchased a surety bond or  
1118 entered into a self-insurance agreement, as provided in  
1119 paragraphs (b) and (c), is requested to provide safekeeping for  
1120 the personal funds of a resident, the licensee shall notify the  
1121 agency of the request and make application for a surety bond or  
1122 for participation in a self-insurance agreement within 7 days  
1123 after ~~of~~ the request, exclusive of weekends and holidays. Copies





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1124 of the application, along with written documentation of related  
1125 correspondence with an insurance agency or group, shall be  
1126 maintained by the licensee for review by the agency and the  
1127 state ~~Nursing Home and Long Term Care Facility~~ ombudsman program  
1128 Council.

1129 Section 25. Subsections (1) and (4) of section 400.19,  
1130 Florida Statutes, are amended to read:

1131 400.19 Right of entry and inspection.—

1132 (1) In accordance with part II of chapter 408, the agency  
1133 and any duly designated officer or employee thereof or a  
1134 representative member of the state ~~Long Term Care~~ ombudsman  
1135 program Council ~~or the local long term care ombudsman council~~  
1136 shall have the right to enter upon and into the premises of any  
1137 facility licensed pursuant to this part, or any distinct nursing  
1138 home unit of a hospital licensed under chapter 395 or any  
1139 freestanding facility licensed under chapter 395 that provides  
1140 extended care or other long-term care services, at any  
1141 reasonable time in order to determine the state of compliance  
1142 with ~~the provisions of~~ this part, part II of chapter 408, and  
1143 applicable rules in force pursuant thereto. The agency shall,  
1144 within 60 days after receipt of a complaint made by a resident  
1145 or resident's representative, complete its investigation and  
1146 provide to the complainant its findings and resolution.

1147 (4) The agency shall conduct unannounced onsite facility  
1148 reviews following written verification of licensee noncompliance  
1149 in instances in which the state ombudsman program ~~a long term~~  
1150 ~~care ombudsman council~~, pursuant to ss. 400.0071 and 400.0075,  
1151 has received a complaint and has documented deficiencies in



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1152 resident care or in the physical plant of the facility that  
1153 threaten the health, safety, or security of residents, or when  
1154 the agency documents through inspection that conditions in a  
1155 facility present a direct or indirect threat to the health,  
1156 safety, or security of residents. However, the agency shall  
1157 conduct unannounced onsite reviews every 3 months of each  
1158 facility while the facility has a conditional license.  
1159 Deficiencies related to physical plant do not require followup  
1160 reviews after the agency has determined that correction of the  
1161 deficiency has been accomplished and that the correction is of  
1162 the nature that continued compliance can be reasonably expected.

1163 Section 26. Subsection (1) of section 400.191, Florida  
1164 Statutes, is amended to read:

1165 400.191 Availability, distribution, and posting of reports  
66 and records.—

1167 (1) The agency shall provide information to the public  
1168 about all of the licensed nursing home facilities operating in  
1169 the state. The agency shall, within 60 days after a licensure  
1170 inspection visit or within 30 days after any interim visit to a  
1171 facility, send copies of the inspection reports to the state  
1172 ~~local long term care ombudsman program council~~, the agency's  
1173 local office, and a public library or the county seat for the  
1174 county in which the facility is located. The agency may provide  
1175 electronic access to inspection reports as a substitute for  
1176 sending copies.

1177 Section 27. Subsection (6) and paragraph (c) of subsection  
1178 (7) of section 400.23, Florida Statutes, is amended to read:



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1179 400.23 Rules; evaluation and deficiencies; licensure  
1180 status.—

1181 (6) ~~Before~~ ~~Prior to~~ conducting a survey of the facility,  
1182 the survey team shall obtain a copy of the state local long term  
1183 ~~care ombudsman program council~~ report on the facility. Problems  
1184 noted in the report shall be incorporated into and followed up  
1185 through the agency's inspection process. This procedure does not  
1186 preclude the state local long term care ombudsman program  
1187 ~~council~~ from requesting the agency to conduct a followup visit  
1188 to the facility.

1189 (7) The agency shall, at least every 15 months, evaluate  
1190 all nursing home facilities and make a determination as to the  
1191 degree of compliance by each licensee with the established rules  
1192 adopted under this part as a basis for assigning a licensure  
1193 status to that facility. The agency shall base its evaluation on  
1194 the most recent inspection report, taking into consideration  
1195 findings from other official reports, surveys, interviews,  
1196 investigations, and inspections. In addition to license  
1197 categories authorized under part II of chapter 408, the agency  
1198 shall assign a licensure status of standard or conditional to  
1199 each nursing home.

1200 (c) In evaluating the overall quality of care and services  
1201 and determining whether the facility will receive a conditional  
1202 or standard license, the agency shall consider the needs and  
1203 limitations of residents in the facility and the results of  
1204 interviews and surveys of a representative sampling of  
1205 residents, families of residents, representatives of the state  
1206 ombudsman program council members in the planning and service



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1207 ~~area in which the facility is located~~, guardians of residents,  
1208 and staff of the nursing home facility.

1209 Section 28. Paragraph (a) of subsection (3), paragraph (f)  
1210 of subsection (5), and subsection (6) of section 400.235,  
1211 Florida Statutes, are amended to read:

1212 400.235 Nursing home quality and licensure status; Gold  
1213 Seal Program.—

1214 (3) (a) The Gold Seal Program shall be developed and  
1215 implemented by the Governor's Panel on Excellence in Long-Term  
1216 Care which shall operate under the authority of the Executive  
1217 Office of the Governor. The panel shall be composed of three  
1218 persons appointed by the Governor, to include a consumer  
1219 advocate for senior citizens and two persons with expertise in  
1220 the fields of quality management, service delivery excellence,  
1221 or public sector accountability; three persons appointed by the  
1222 Secretary of Elderly Affairs, to include an active member of a  
1223 nursing facility family and resident care council and a member  
1224 of the University Consortium on Aging; a representative of the  
1225 Office of State Long-Term Care Ombudsman; one person appointed  
1226 by the Florida Life Care Residents Association; one person  
1227 appointed by the State Surgeon General; two persons appointed by  
1228 the Secretary of Health Care Administration; one person  
1229 appointed by the Florida Association of Homes for the Aging; and  
1230 one person appointed by the Florida Health Care Association.  
1231 Vacancies on the panel shall be filled in the same manner as the  
1232 original appointments.

1233 (5) Facilities must meet the following additional criteria  
1234 for recognition as a Gold Seal Program facility:



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1235 (f) Evidence an outstanding record regarding the number  
1236 and types of substantiated complaints reported to the Office of  
1237 State Long-Term Care Ombudsman ~~Council~~ within the 30 months  
\*1238 preceding application for the program.

1239  
1240 A facility assigned a conditional licensure status may not  
1241 qualify for consideration for the Gold Seal Program until after  
1242 it has operated for 30 months with no class I or class II  
1243 deficiencies and has completed a regularly scheduled relicensure  
1244 survey.

1245 (6) The agency, nursing facility industry organizations,  
1246 consumers, Office of State Long-Term Care Ombudsman Council, and  
1247 members of the community may recommend to the Governor  
1248 facilities that meet the established criteria for consideration  
1249 for and award of the Gold Seal. The panel shall review nominees  
1250 and make a recommendation to the Governor for final approval and  
1251 award. The decision of the Governor is final and is not subject  
1252 to appeal.

1253 Section 29. Paragraph (a) of subsection (1) of section  
1254 415.1034, Florida Statutes, is amended to read:

1255 415.1034 Mandatory reporting of abuse, neglect, or  
1256 exploitation of vulnerable adults; mandatory reports of death.-

1257 (1) MANDATORY REPORTING.-

1258 (a) Any person, including, but not limited to, any:

1259 1. Physician, osteopathic physician, medical examiner,  
1260 chiropractic physician, nurse, paramedic, emergency medical  
1261 technician, or hospital personnel engaged in the admission,  
1262 examination, care, or treatment of vulnerable adults;



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1263 2. Health professional or mental health professional other  
1264 than one listed in subparagraph 1.;

1265 3. Practitioner who relies solely on spiritual means for  
1266 healing;

1267 4. Nursing home staff; assisted living facility staff;  
1268 adult day care center staff; adult family-care home staff;  
1269 social worker; or other professional adult care, residential, or  
1270 institutional staff;

1271 5. State, county, or municipal criminal justice employee  
1272 or law enforcement officer;

1273 6. ~~An~~ Employee of the Department of Business and  
1274 Professional Regulation conducting inspections of public lodging  
1275 establishments under s. 509.032;

1276 7. Florida advocacy council member or representative of  
1277 the Office of State Long-Term Care Ombudsman ~~council member~~; or

1278 8. Bank, savings and loan, or credit union officer,  
1279 trustee, or employee,

1280  
1281 who knows, or has reasonable cause to suspect, that a vulnerable  
1282 adult has been or is being abused, neglected, or exploited shall  
1283 immediately report such knowledge or suspicion to the central  
1284 abuse hotline.

1285 Section 30. Subsection (1) of section 415.104, Florida  
1286 Statutes, is amended to read:

1287 415.104 Protective investigations of cases of abuse,  
1288 neglect, or exploitation of vulnerable adults; transmittal of  
1289 records to state attorney.-



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1290 (1) The department shall, upon receipt of a report  
1291 alleging abuse, neglect, or exploitation of a vulnerable adult,  
1292 begin within 24 hours a protective investigation of the facts  
1293 alleged therein. If a caregiver refuses to allow the department  
1294 to begin a protective investigation or interferes with the  
1295 conduct of such an investigation, the appropriate law  
1296 enforcement agency shall be contacted for assistance. If, during  
1297 the course of the investigation, the department has reason to  
1298 believe that the abuse, neglect, or exploitation is perpetrated  
1299 by a second party, the appropriate law enforcement agency and  
1300 state attorney shall be orally notified. The department and the  
1301 law enforcement agency shall cooperate to allow the criminal  
1302 investigation to proceed concurrently with, and not be hindered  
1303 by, the protective investigation. The department shall make a  
1304 preliminary written report to the law enforcement agencies  
1305 within 5 working days after the oral report. The department  
1306 shall, within 24 hours after receipt of the report, notify the  
1307 appropriate Florida local advocacy council, or state long-term  
1308 care ombudsman program council, when appropriate, that an  
1309 alleged abuse, neglect, or exploitation perpetrated by a second  
1310 party has occurred. Notice to the Florida local advocacy council  
1311 or state long-term care ombudsman program council may be  
1312 accomplished orally or in writing and shall include the name and  
1313 location of the vulnerable adult alleged to have been abused,  
1314 neglected, or exploited and the nature of the report.

1315 Section 31. Subsection (8) of section 415.1055, Florida  
1316 Statutes, is amended to read:

1317 415.1055 Notification to administrative entities.-



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1318 (8) At the conclusion of a protective investigation at a  
1319 facility, the department shall notify either the Florida local  
1320 advocacy council or state long-term-care ombudsman program  
1321 ~~council~~ of the results of the investigation. This notification  
1322 must be in writing.

1323 Section 32. Subsection (2) of section 415.106, Florida  
1324 Statutes, is amended to read:

1325 415.106 Cooperation by the department and criminal justice  
1326 and other agencies.—

1327 (2) To ensure coordination, communication, and cooperation  
1328 with the investigation of abuse, neglect, or exploitation of  
1329 vulnerable adults, the department shall develop and maintain  
1330 interprogram agreements or operational procedures among  
1331 appropriate departmental programs and the Office of State Long-  
1332 Term Care Ombudsman Council, the Florida Statewide Advocacy  
1333 Council, and other agencies that provide services to vulnerable  
1334 adults. These agreements or procedures must cover such subjects  
1335 as the appropriate roles and responsibilities of the department  
1336 in identifying and responding to reports of abuse, neglect, or  
1337 exploitation of vulnerable adults; the provision of services;  
1338 and related coordinated activities.

1339 Section 33. Paragraph (g) of subsection (3) of section  
1340 415.107, Florida Statutes, is amended to read:

1341 415.107 Confidentiality of reports and records.—

1342 (3) Access to all records, excluding the name of the  
1343 reporter which shall be released only as provided in subsection  
1344 (6), shall be granted only to the following persons, officials,  
1345 and agencies:





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1346 (g) Any appropriate official of the Florida advocacy  
1347 council or state long-term-care ombudsman program council  
1348 investigating a report of known or suspected abuse, neglect, or  
1349 exploitation of a vulnerable adult.

1350 Section 34. Subsection (20) of section 429.02, Florida  
1351 Statutes, is amended to read:

1352 429.02 Definitions.—When used in this part, the term:

1353 (20) "Resident's representative or designee" means a  
1354 person other than the owner, or an agent or employee of the  
1355 facility, designated in writing by the resident, if legally  
1356 competent, to receive notice of changes in the contract executed  
1357 pursuant to s. 429.24; to receive notice of and to participate  
1358 in meetings between the resident and the facility owner,  
1359 administrator, or staff concerning the rights of the resident;  
1360 to assist the resident in contacting the state ombudsman program  
1361 council if the resident has a complaint against the facility; or  
1362 to bring legal action on behalf of the resident pursuant to s.  
1363 429.29.

1364 Section 35. Paragraph (b) of subsection (3) of section  
1365 429.07, Florida Statutes, is amended to read:

1366 429.07 License required; fee.—

1367 (3) In addition to the requirements of s. 408.806, each  
1368 license granted by the agency must state the type of care for  
1369 which the license is granted. Licenses shall be issued for one  
1370 or more of the following categories of care: standard, extended  
1371 congregate care, limited nursing services, or limited mental  
1372 health.



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1373 (b) An extended congregate care license shall be issued to  
1374 facilities providing, directly or through contract, services  
1375 beyond those authorized in paragraph (a), including services  
1376 performed by persons licensed under part I of chapter 464 and  
1377 supportive services, as defined by rule, to persons who would  
1378 otherwise be disqualified from continued residence in a facility  
1379 licensed under this part.

1380 1. In order for extended congregate care services to be  
1381 provided, the agency must first determine that all requirements  
1382 established in law and rule are met and must specifically  
1383 designate, on the facility's license, that such services may be  
1384 provided and whether the designation applies to all or part of  
1385 the facility. Such designation may be made at the time of  
1386 initial licensure or relicensure, or upon request in writing by  
1387 a licensee under this part and part II of chapter 408. The  
1388 notification of approval or the denial of the request shall be  
1389 made in accordance with part II of chapter 408. Existing  
1390 facilities qualifying to provide extended congregate care  
1391 services must have maintained a standard license and may not  
1392 have been subject to administrative sanctions during the  
1393 previous 2 years, or since initial licensure if the facility has  
1394 been licensed for less than 2 years, for any of the following  
1395 reasons:

- 1396 a. A class I or class II violation;
- 1397 b. Three or more repeat or recurring class III violations  
1398 of identical or similar resident care standards from which a  
1399 pattern of noncompliance is found by the agency;



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1400 c. Three or more class III violations that were not  
1401 corrected in accordance with the corrective action plan approved  
1402 by the agency;

1403 d. Violation of resident care standards which results in  
1404 requiring the facility to employ the services of a consultant  
1405 pharmacist or consultant dietitian;

1406 e. Denial, suspension, or revocation of a license for  
1407 another facility licensed under this part in which the applicant  
1408 for an extended congregate care license has at least 25 percent  
1409 ownership interest; or

1410 f. Imposition of a moratorium pursuant to this part or  
1411 part II of chapter 408 or initiation of injunctive proceedings.

1412 2. A facility that is licensed to provide extended  
1413 congregate care services shall maintain a written progress  
1414 report on each person who receives services which describes the  
1415 type, amount, duration, scope, and outcome of services that are  
1416 rendered and the general status of the resident's health. A  
1417 registered nurse, or appropriate designee, representing the  
1418 agency shall visit the facility at least quarterly to monitor  
1419 residents who are receiving extended congregate care services  
1420 and to determine whether ~~if~~ the facility is in compliance with  
1421 this part, part II of chapter 408, and relevant rules. One of  
1422 the visits may be in conjunction with the regular survey. The  
1423 monitoring visits may be provided through contractual  
1424 arrangements with appropriate community agencies. A registered  
1425 nurse shall serve as part of the team that inspects the  
1426 facility. The agency may waive one of the required yearly  
1427 monitoring visits for a facility that has been licensed for at



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1428 least 24 months to provide extended congregate care services,  
1429 if, during the inspection, the registered nurse determines that  
1430 extended congregate care services are being provided  
1431 appropriately, and if the facility has no class I or class II  
1432 violations and no uncorrected class III violations. The agency  
1433 must first consult with the state ~~long-term care~~ ombudsman  
1434 program council for the area in which the facility is located to  
1435 determine whether ~~if~~ any complaints have been made and  
1436 substantiated about the quality of services or care. The agency  
1437 may not waive one of the required yearly monitoring visits if  
1438 complaints have been made and substantiated.

1439 3. A facility that is licensed to provide extended  
1440 congregate care services must:

1441 a. Demonstrate the capability to meet unanticipated  
1442 resident service needs.

1443 b. Offer a physical environment that promotes a homelike  
1444 setting, provides for resident privacy, promotes resident  
1445 independence, and allows sufficient congregate space as defined  
1446 by rule.

1447 c. Have sufficient staff available, taking into account  
1448 the physical plant and firesafety features of the building, to  
1449 assist with the evacuation of residents in an emergency.

1450 d. Adopt and follow policies and procedures that maximize  
1451 resident independence, dignity, choice, and decisionmaking to  
1452 permit residents to age in place, so that moves due to changes  
1453 in functional status are minimized or avoided.

1454 e. Allow residents or, if applicable, a resident's  
1455 representative, designee, surrogate, guardian, or attorney in



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1456 fact to make a variety of personal choices, participate in  
1457 developing service plans, and share responsibility in  
1458 decisionmaking.

1459 f. Implement the concept of managed risk.

1460 g. Provide, directly or through contract, the services of  
1461 a person licensed under part I of chapter 464.

1462 h. In addition to the training mandated in s. 429.52,  
1463 provide specialized training as defined by rule for facility  
1464 staff.

1465 4. A facility that is licensed to provide extended  
1466 congregate care services is exempt from the criteria for  
1467 continued residency set forth in rules adopted under s. 429.41.  
1468 A licensed facility must adopt its own requirements within  
1469 guidelines for continued residency set forth by rule. However,  
1470 the facility may not serve residents who require 24-hour nursing  
1471 supervision. A licensed facility that provides extended  
1472 congregate care services must also provide each resident with a  
1473 written copy of facility policies governing admission and  
1474 retention.

1475 5. The primary purpose of extended congregate care  
1476 services is to allow residents, as they become more impaired,  
1477 the option of remaining in a familiar setting from which they  
1478 would otherwise be disqualified for continued residency. A  
1479 facility licensed to provide extended congregate care services  
1480 may also admit an individual who exceeds the admission criteria  
1481 for a facility with a standard license, if the individual is  
1482 determined appropriate for admission to the extended congregate  
1483 care facility.



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1484 6. Before the admission of an individual to a facility  
1485 licensed to provide extended congregate care services, the  
1486 individual must undergo a medical examination as provided in s.  
1487 429.26(4) and the facility must develop a preliminary service  
1488 plan for the individual.

1489 7. When a facility can no longer provide or arrange for  
1490 services in accordance with the resident's service plan and  
1491 needs and the facility's policy, the facility shall make  
1492 arrangements for relocating the person in accordance with s.  
1493 429.28(1)(k).

1494 8. Failure to provide extended congregate care services  
1495 may result in denial of extended congregate care license  
1496 renewal.

1497 Section 36. Subsection (9) of section 429.19, Florida  
1498 Statutes, is amended to read:

1499 429.19 Violations; imposition of administrative fines;  
1500 grounds.—

1501 (9) The agency shall develop and disseminate an annual  
1502 list of all facilities sanctioned or fined for violations of  
1503 state standards, the number and class of violations involved,  
1504 the penalties imposed, and the current status of cases. The list  
1505 shall be disseminated, at no charge, to the Department of  
1506 Elderly Affairs, the Department of Health, the Department of  
1507 Children and Family Services, the Agency for Persons with  
1508 Disabilities, the area agencies on aging, the Florida Statewide  
1509 Advocacy Council, and the state ~~and local~~ ombudsman program  
1510 ~~councils~~. The Department of Children and Family Services shall  
1511 disseminate the list to service providers under contract to the



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1512 department who are responsible for referring persons to a  
1513 facility for residency. The agency may charge a fee commensurate  
1514 with the cost of printing and postage to other interested  
1515 parties requesting a copy of this list. This information may be  
1516 provided electronically or through the agency's Internet site.

1517 Section 37. Subsection (8) of section 429.26, Florida  
1518 Statutes, is amended to read:

1519 429.26 Appropriateness of placements; examinations of  
1520 residents.—

1521 (8) The Department of Children and Family Services may  
1522 require an examination for supplemental security income and  
1523 optional state supplementation recipients residing in facilities  
1524 at any time and shall provide the examination whenever a  
1525 resident's condition requires it. Any facility administrator;  
1526 personnel of the agency, the department, or the Department of  
1527 Children and Family Services; or representative of the state  
1528 ~~long term care ombudsman program council member~~ who believes a  
1529 resident needs to be evaluated shall notify the resident's case  
1530 manager, who shall take appropriate action. A report of the  
1531 examination findings shall be provided to the resident's case  
1532 manager and the facility administrator to help the administrator  
1533 meet his or her responsibilities under subsection (1).

1534 Section 38. Subsection (2) and paragraph (b) of subsection  
1535 (3) of section 429.28, Florida Statutes, are amended to read:

1536 429.28 Resident bill of rights.—

1537 (2) The administrator of a facility shall ensure that a  
1538 written notice of the rights, obligations, and prohibitions set  
1539 forth in this part is posted in a prominent place in each



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1540 facility and read or explained to residents who cannot read.  
1541 This notice shall include the statewide toll-free telephone  
1542 number and e-mail address ~~name, address, and telephone numbers~~  
1543 of the state local ~~ombudsman~~ program ~~council~~ and central abuse  
1544 hotline and, when applicable, the Advocacy Center for Persons  
1545 with Disabilities, Inc., and the Florida local advocacy council,  
1546 where complaints may be lodged. The facility must ensure a  
1547 resident's access to a telephone to call the state local  
1548 ombudsman program ~~council~~, central abuse hotline, Advocacy  
1549 Center for Persons with Disabilities, Inc., and the Florida  
1550 local advocacy council.

(3)

1552 (b) In order to determine whether the facility is  
1553 adequately protecting residents' rights, the biennial survey  
1554 shall include private informal conversations with a sample of  
1555 residents and consultation with the state ombudsman program  
1556 ~~council~~ in the planning and service area in which the facility  
1557 is located to discuss residents' experiences within the  
1558 facility.

1559 Section 39. Section 429.34, Florida Statutes, is amended  
1560 to read:

1561 429.34 Right of entry and inspection.—In addition to the  
1562 requirements of s. 408.811, any duly designated officer or  
1563 employee of the department, the Department of Children and  
1564 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the  
1565 Office of the Attorney General, the state or local fire marshal,  
1566 or a representative member of the state ~~or local long term care~~  
1567 ombudsman program ~~council~~ shall have the right to enter





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1568 unannounced upon and into the premises of any facility licensed  
1569 pursuant to this part in order to determine the state of  
1570 compliance with ~~the provisions of~~ this part, part II of chapter  
1571 408, and applicable rules. Data collected by the state ~~or local~~  
1572 ~~long term care ombudsman program councils~~ or the state or local  
1573 advocacy councils may be used by the agency in investigations  
1574 involving violations of regulatory standards.

1575 Section 40. Subsection (2) of section 429.35, Florida  
1576 Statutes, is amended to read:

1577 429.35 Maintenance of records; reports.—

1578 (2) Within 60 days after the date of the biennial  
1579 inspection visit required under s. 408.811 or within 30 days  
1580 after the date of any interim visit, the agency shall forward  
1581 the results of the inspection to the state local ombudsman  
1582 ~~program council in whose planning and service area, as defined~~  
1583 ~~in part II of chapter 400, the facility is located;~~ to at least  
1584 one public library or, in the absence of a public library, the  
1585 county seat in the county in which the inspected assisted living  
1586 facility is located; and, when appropriate, to the district  
1587 Adult Services and Mental Health Program Offices.

1588 Section 41. Subsection (2) of section 429.85, Florida  
1589 Statutes, is amended to read:

1590 429.85 Residents' bill of rights.—

1591 (2) The provider shall ensure that residents and their  
1592 legal representatives are made aware of the rights, obligations,  
1593 and prohibitions set forth in this part. Residents must also be  
1594 given the statewide toll-free telephone number and e-mail  
1595 address of the state ombudsman program and the telephone number



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1596 ~~of names, addresses, and telephone numbers of the local~~  
1597 ~~ombudsman council~~ and the central abuse hotline where they may  
1598 lodge complaints.

1599 Section 42. Subsection (17) of section 744.444, Florida  
1600 Statutes, is amended to read:

1601 744.444 Power of guardian without court approval.—Without  
1602 obtaining court approval, a plenary guardian of the property, or  
1603 a limited guardian of the property within the powers granted by  
1604 the order appointing the guardian or an approved annual or  
1605 amended guardianship report, may:

1606 (17) Provide confidential information about a ward that is  
1607 related to an investigation arising under part I of chapter 400  
1608 to a representative of the local or state ombudsman program  
1609 ~~council member~~ conducting such an investigation. Any such  
1610 ombudsman shall have a duty to maintain the confidentiality of  
1611 such information.

1612 Section 43. This act shall take effect July 1, 2013.

1613  
1614

1615 -----

1616 **T I T L E A M E N D M E N T**

1617 Remove line 15 and insert:  
1618 of the State Long-Term Care Ombudsman

1619



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	<input checked="" type="checkbox"/>	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health & Human Services  
 2 Committee

3 Representative Pigman offered the following:

4

5 **Amendment to Amendment (443247) by Representative**

6 Remove lines 532-538 of the amendment and insert:  
 7 service affiliated with, employed by, or which receives funding  
 8 or payment from a law firm that has filed a claim or lawsuit  
 9 against the long-term care facility.

10 (b) Be employed by, or participate in the management of, a  
 11 long-term care facility affiliated with, employed by, or which  
 12 receives funding or payment from a law firm that has filed a  
 13 claim or lawsuit against the long-term care facility.

14 (c) Receive, or have a right to receive, directly or  
 15 indirectly, remuneration, in cash or in kind, under a  
 16 compensation agreement with the owner or operator of a long-term  
 17 care facility affiliated with, employed by, or which receives  
 18 funding or payment from a law firm that has filed a claim or  
 19 lawsuit against the long-term care facility.

20

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/HB 1109 : Transitional Living Facilities**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones				X	
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 16</b>		<b>Total Nays: 0</b>			

**CS/HB 1109 Amendments**

**Amendment 568569**

*Adopted Without Objection*

**Appearances:**

Smith, Sylvia (Lobbyist) - Waive In Support  
 Disability Right Florida  
 2728 Centerview Dr.  
 Tallahassee FL 32301  
 Phone: (850) 322-2258

Pitts, Brian (General Public) - Information Only  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Committee

3 Representative Magar offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Sections 400.9970 through 400.9984, Florida  
8 Statutes, are designated as part XI of chapter 400, Florida  
9 Statutes, entitled "Transitional Living Facilities."

10 Section 2. Section 400.9970, Florida Statutes, is created  
11 to read:

12 400.9970 Legislative intent.—It is the intent of the  
13 Legislature to provide for the licensure of transitional living  
14 facilities and require the development, establishment, and  
15 enforcement of basic standards by the agency to ensure quality  
16 of care and services to clients in transitional living  
17 facilities. It is the policy of the state that the least  
18 restrictive appropriate available treatment be used based on the  
19 individual needs and best interests of the client and consistent  
20 with optimum improvement of the client's condition. The goal of



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21 a transitional living program for individuals who have brain or  
22 spinal cord injuries is to assist each individual who has such  
23 an injury to achieve a higher level of independent functioning  
24 and to enable that individual to reenter the community. It is  
25 also the policy of this state that the use of restraint and  
26 seclusion on clients is justified only as an emergency safety  
27 measure to be used in response to danger to the client or  
28 others. It is, therefore, the intent of the Legislature to  
29 achieve an ongoing reduction in the use of restraint and  
30 seclusion in programs and facilities serving persons with brain  
31 injury or spinal cord injuries.

32 Section 3. Section 400.9971, Florida Statutes, is created  
33 to read:

34 400.9971 Definitions.—As used in this part, the term:

35 (1) "Agency" means the Agency for Health Care  
36 Administration.

37 (2) "Chemical restraint" means a pharmacologic drug that  
38 physically limits, restricts, or deprives an individual of  
39 movement or mobility, is used for client protection or safety,  
40 and is not required for the treatment of medical conditions or  
41 symptoms.

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

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

46 (5) "Physical restraint" means any manual method to  
47 restrict freedom of movement of or normal access to an  
48 individual's body, or a physical or mechanical device, material,



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49 or equipment attached or adjacent to the individual's body so  
50 that he or she cannot easily remove the restraint and that  
51 restricts freedom of movement of or normal access to one's body,  
52 including, but not limited to, a half-bed rail, a full-bed rail,  
53 a geriatric chair, and a posey restraint. The term includes any  
54 device that was not specifically manufactured as a restraint but  
55 that has been altered, arranged, or otherwise used for this  
56 purpose. The term does not include bandage material used for the  
57 purpose of binding a wound or injury.

58 (6) "Seclusion" means the physical segregation of a person  
59 in any fashion or involuntary isolation of a person in a room or  
60 area from which the person is prevented from leaving. The  
61 prevention may be by physical barrier or by staff member who is  
62 acting in a manner, or who is physically situated, so as to  
63 prevent the person from leaving the room or area. For purposes  
64 of this chapter, the term does not mean isolation due to a  
65 person's medical condition or symptoms.

66 (7) "Transitional living facility" means a site where  
67 specialized health care services are provided, including, but  
68 not limited to, rehabilitative services, behavior modification,  
69 community reentry training, aids for independent living, and  
70 counseling to individuals with brain-injuries or spinal-cord-  
71 injuries. The term does not require a provider otherwise  
72 licensed by the agency to obtain a separate transitional living  
73 facility license to serve persons with brain or spinal cord  
74 injuries as long as the services provided are within the scope  
75 of their license.



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76 Section 4. Section 400.9972, Florida Statutes, is created  
77 to read:

78 400.9972 License required; fee; application.-

79 (1) The requirements of part II of chapter 408 apply to  
80 the provision of services that require licensure pursuant to  
81 this part and part II of chapter 408 and to entities licensed by  
82 or applying for such licensure from the agency pursuant to this  
83 part. A license issued by the agency is required for the  
84 operation of a transitional living facility in this state.

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

90 (3) Each applicant for licensure must provide:

91 (a) The location of the facility for which a license is  
92 sought and documentation, signed by the appropriate local  
93 government official, that states that the applicant has met  
94 local zoning requirements.

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

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

99 (d) Proof that the facility has received a satisfactory  
100 firesafety inspection.

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





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103        (f) The facility must attain and continuously maintain  
104 accreditation by an accrediting organization specializing in  
105 evaluating rehabilitation facilities whose standards incorporate  
106 comparable licensure regulations required by the state.  
107 Applicants for licensure as a transitional living facility must  
108 acquire accreditation within 12 months of the issuance of an  
109 initial license. The Agency shall accept the accreditation  
110 survey report of the accrediting organization in lieu of  
111 conducting a licensure inspection provided that the standards  
112 included in the survey report are determined by the agency to  
113 document the facility is in substantial compliance with state  
114 licensure requirements. The facility must submit to the agency,  
115 within 10 days of receipt, a copy of any accreditation survey  
116 report and evidence of the accreditation decision subsequent to  
117 a survey by the accrediting organization on the facility.  
118 Nothing in this part shall preclude the agency from conducting  
119 periodic inspections of transitional living facilities to ensure  
120 compliance with all licensure requirements, and as it deems  
121 necessary to carry out the functions of the agency. Inspections  
122 may be conducted to assure compliance licensure requirements of  
123 this part, to validate the inspection process of accrediting  
124 organizations, to respond to licensure complaints or to protect  
125 the public health and safety.

126        Section 5. Section 400.9973, Florida Statutes, is created  
127 to read:

128        400.9973 Client admission, transfer, and discharge.-



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129 (1) Each transitional living facility must have written  
130 policies and procedures governing the admission, transfer, and  
131 discharge of clients.

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

135 (3) A client admitted to a transitional living facility  
136 must have a brain or spinal cord injury, such as a lesion to the  
137 spinal cord or cauda equina syndrome, with evidence of  
138 significant involvement of two of the following deficits or  
139 dysfunctions:

140 (a) A motor deficit.

141 (b) A sensory deficit.

142 (c) Bowel and bladder dysfunction.

143 (d) An acquired internal or external injury to the skull,  
144 the brain, or the brain's covering, whether caused by a  
145 traumatic or non-traumatic event, that produces an altered state  
146 of consciousness or an anatomic motor, sensory, cognitive, or  
147 behavioral deficit.

148 (4) A client whose medical condition and diagnosis does  
149 not positively identify a cause of the client's condition, whose  
150 symptoms are inconsistent with the known cause of injury, or  
151 whose recovery is inconsistent with the known medical condition  
152 may be admitted to a transitional living facility for evaluation  
153 for a period not to exceed 90 days.

154 (5) A client admitted to a transitional living facility  
155 must be admitted upon prescription by a licensed physician and



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156 must remain under the care of a licensed physician for the  
157 duration of the client's stay in the facility.

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

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

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

167 (b) Is a danger to self or others as determined by a  
168 physician or mental health practitioner licensed under chapter  
169 490 or chapter 491, unless the facility provides adequate  
170 staffing and support to ensure patient safety;

171 (c) Is bedridden; or

172 (d) Requires 24-hour nursing supervision.

173 (8) If the client meets the admission criteria, the  
174 medical or nursing director of the facility must complete an  
175 initial evaluation of the client's functional skills, behavioral  
176 status, cognitive status, educational or vocational potential,  
177 medical status, psychosocial status, sensorimotor capacity, and  
178 other related skills and abilities within the first 72 hours  
179 after the client's admission to the facility. An initial  
180 comprehensive treatment plan that delineates services to be  
181 provided and appropriate sources for such services must be  
182 implemented within the first 4 days after admission.



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183       (9) Each transitional living facility shall develop a  
184 discharge plan for each client before or upon admission to the  
185 facility. The discharge plan must identify the intended  
186 discharge site and possible alternative discharge sites. For  
187 each discharge site identified, the discharge plan must identify  
188 the skills, behaviors, and other conditions that the client must  
189 achieve to be appropriate for discharge. Discharge plans must be  
190 reviewed and updated as necessary, but no less often than once  
191 monthly.

192       (10) As soon as practicable, a transitional living  
193 facility shall discharge a client when he or she no longer  
194 requires any of the specialized services described in s.  
195 400.9971(7) or is not making measurable progress in accordance  
196 with his or her comprehensive treatment plan, or if the  
197 transitional living facility is no longer the most appropriate,  
198 least restrictive treatment option.

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

204       Section 6. Section 400.9974, Florida Statutes, is created  
205 to read:

206       400.9974 Client comprehensive treatment plans; client  
207 services.—

208       (1) Each transitional living facility shall develop a  
209 comprehensive treatment plan for each client as soon as  
210 possible, but no later than 30 days following development of the



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211 initial comprehensive treatment plan. Comprehensive treatment  
212 plans must be reviewed and updated if the client fails to meet  
213 projected improvements in the plan or if a significant change in  
214 the client's condition occurs. Treatment plans must be reviewed  
215 and updated no less often than once monthly. Comprehensive  
216 treatment plans must be developed by an interdisciplinary team  
217 consisting of the case manager, the program director, the nurse,  
218 and appropriate therapists. The client or, if appropriate, the  
219 client's representative must be included in developing the  
220 comprehensive treatment plan.

221 (2) The comprehensive treatment plan must include:

222 (a) The physician's orders and the client's diagnosis,  
223 medical history, physical examination, and rehabilitative or  
224 restorative needs.

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

227 (c) A comprehensive, accurate, reproducible, and  
228 standardized assessment of the client's functional capability;  
229 the treatments designed to achieve skills, behaviors, and other  
230 conditions necessary to return to the community; and specific  
231 measurable goals.

232 (d) Steps necessary for the client to achieve transition  
233 to the community and estimated length of time to achieve the  
234 goals.

235 (3) The client or, if appropriate, the client's  
236 representative shall consent to the continued treatment at the  
237 transitional living facility. Consent may be for a period of up  
238 to 3 months. If such consent is not given, the transitional



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239 living facility shall discharge the client as soon as  
240 practicable.

241 (4) Each client must receive the professional program  
242 services needed to implement the client's comprehensive  
243 treatment plan.

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

248 (6) Each client must receive a continuous treatment  
249 program that includes appropriate, consistent implementation of  
250 a program of specialized and general training, treatment, health  
251 services, and related services that is directed toward:

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

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

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

259 Section 7. Section 400.9975, Florida Statutes, is created  
260 to read:

261 400.9975 Licensee responsibilities.—

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

263 (a) Lives in a safe environment free from abuse, neglect,  
264 and exploitation.



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265 (b) Is treated with consideration and respect and with due  
266 recognition of personal dignity, individuality, and the need for  
267 privacy.

268 (c) Retains and uses his or her own clothes and other  
269 personal property in his or her immediate living quarters, so as  
270 to maintain individuality and personal dignity, except when the  
271 licensee can demonstrate that such retention and use would be  
272 unsafe, impractical, or an infringement upon the rights of other  
273 clients.

274 (d) Has unrestricted private communication, including  
275 receiving and sending unopened correspondence, access to a  
276 telephone, and visiting with any person of his or her choice.  
277 Upon request, the licensee shall make provisions to modify  
278 visiting hours for caregivers and guests. The facility shall  
279 restrict communication in accordance with any court order or  
280 written instruction of a client's representative. Any  
281 restriction on a client's communication for therapeutic reasons  
282 shall be documented and reviewed no less often than weekly and  
283 shall be removed as soon as it is no longer clinically  
284 indicated. The basis for the restriction shall be explained to  
285 the client and, if applicable, the client's representative. The  
286 client shall nonetheless retain the right to call the abuse  
287 hotline, the agency, and Disability Rights Florida at any and  
288 all times.

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



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

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

299 (h) Exercises civil and religious liberties, including the  
300 right to independent personal decisions. No religious belief or  
301 practice, including attendance at religious services, shall be  
302 imposed upon any client.

303 (i) Has access to adequate and appropriate health care  
304 consistent with established and recognized standards within the  
305 community.

306 (j) Has the ability to present grievances and recommend  
307 changes in policies, procedures, and services to the staff of  
308 the licensee, governing officials, or any other person without  
309 restraint, interference, coercion, discrimination, or reprisal.  
310 Each licensee shall establish a grievance procedure to  
311 facilitate a client's ability to present grievances, including a  
312 system for investigating, tracking, managing, and responding to  
313 complaints by persons receiving services or individuals acting  
314 on their behalf, and an appeals process. This process must  
315 include access to Disability Rights Florida and other advocates  
316 and the right to be a member of, be active in, and associate  
317 with advocacy or special interest groups.

318 (2) The licensee shall:





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319 (a) Promote participation of each client's representative  
320 in the process of providing treatment to the client unless the  
321 representative's participation is unobtainable or inappropriate.

322 (b) Answer communications from each client's family,  
323 guardians, representatives, and friends promptly and  
324 appropriately.

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

331 (d) Promote leave from the facility for visits, trips, or  
332 vacations.

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

337 (3) The administrator of a facility shall ensure that a  
338 written notice of licensee responsibilities is posted in a  
339 prominent place in each building where clients reside and read  
340 or explained to clients who cannot read. This notice shall  
341 include the statewide toll-free telephone number for reporting  
342 complaints to the agency, must be provided to clients in a  
343 manner that is clearly legible, and must include the words: "To  
344 report a complaint regarding the services you receive, please  
345 call toll-free ...[telephone number]... or Disability Rights  
346 Florida ...[telephone number]..."; and the statewide toll-free



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347 telephone number for the central abuse hotline must be provided  
348 to clients in a manner that is clearly legible and must include  
349 the words: "To report abuse, neglect or exploitation, please  
350 call toll-free ...[telephone number where complaints may be  
351 lodged]...." The licensee must ensure a client's access to a  
352 telephone, where telephone numbers required in this subsection  
353 are readily available, to call the agency, central abuse  
354 hotline, or Disability Rights Florida.

355 (4) A licensee or employee of a facility may not serve  
356 notice upon a client to leave the premises or take any other  
357 retaliatory action against any person solely due to the  
358 following:

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

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

363 (5) Before or at the time of admission, the client and the  
364 client's representative shall be provided with a copy of the  
365 licensee's responsibilities as provided in this section  
366 including grievance procedures and the phone numbers provided in  
367 subsection (3).

368 (6) The licensee must develop and implement policies and  
369 procedures governing the release of any client information,  
370 including consent necessary from the client or the client's  
371 representative.

372 Section 8. Section 400.9976, Florida Statutes, is created  
373 to read:

374 400.9976 Medication practices.--



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375       (1) An individual medication administration record must be  
376 maintained for each client. Each dose of medication, including a  
377 self-administered dose, shall be properly recorded in the  
378 client's record. Each client who self-administers medication  
379 shall be given a pill organizer. Medication must be placed in  
380 the pill organizer by a nurse. A nurse shall document the date  
381 and time medication is placed into each client's pill organizer.  
382 All medications must be administered in compliance with the  
383 physician's orders.

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

397       (3) Medication administration discrepancies and adverse  
398 drug reactions must be recorded and reported immediately to a  
399 physician.

400       Section 9. Section 400.9977, Florida Statutes, is created  
401 to read:



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402 400.9977 Protection from abuse, neglect, mistreatment, and  
403 exploitation.—The licensee must develop and implement policies  
404 and procedures for the screening and training of employees, the  
405 protection of clients, and the prevention, identification,  
406 investigation, and reporting of abuse, neglect, and  
407 exploitation. This includes the licensee's identification of  
408 clients whose personal histories render them at risk for abusing  
409 other clients, development of intervention strategies to prevent  
410 occurrences, monitoring for changes that would trigger abusive  
411 behavior, and reassessment of the interventions on a regular  
412 basis. A licensee shall implement procedures to:

413 (1) Screen potential employees for a history of abuse,  
414 neglect, or mistreatment of clients. The screening shall include  
415 an attempt to obtain information from previous employers and  
416 current employers and verification with the appropriate  
417 licensing boards.

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

425 (3) Provide clients, families, and staff with information  
426 on how and to whom they may report concerns, incidents, and  
427 grievances without the fear of retribution and provide feedback  
428 regarding the concerns that have been expressed. A licensee must  
429 identify, correct, and intervene in situations in which abuse,



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430 neglect, mistreatment, or exploitation is likely to occur,  
431 including:

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

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

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

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

452 (5) Investigate different types of incidents, identify the  
453 staff member responsible for the initial reporting, investigate  
454 alleged violations, and report results to the proper  
455 authorities. The licensee must analyze the occurrences to  
456 determine what changes are needed, if any, to policies and  
457 procedures to prevent further occurrences and to take all



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458 necessary corrective action depending on the results of the  
459 investigation.

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

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

466 Section 10. Section 400.9978, Florida Statutes, is created  
467 to read:

468 400.9978 Restraints and seclusion; client safety.—

469 (1) GENERAL STANDARDS. Each facility will provide a  
470 therapeutic milieu that supports a culture of individual  
471 empowerment and responsibility. The health and safety of the  
472 person shall be the primary concern at all times.

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

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



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

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

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

498 (5) A client who is prescribed and receiving a medication  
499 that can serve as a chemical restraint for a purpose other than  
500 an emergency treatment order must be evaluated by his or her  
501 physician at least monthly to assess:

502 (a) The continued need for the medication.

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

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

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

509 (7) The licensee may use physical restraint and seclusion  
510 only as authorized by the facility's written physical restraint  
511 and seclusion policies, the provisions of which must be in  
512 compliance with this section and applicable rules.



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

517       (9) A facility shall notify the parent or guardian of a  
518 client each time restraint or seclusion is used. Such  
519 notification must be within 24 hours from when the restraint or  
520 seclusion occurs. Reasonable efforts must be taken to notify the  
521 parent or guardian by telephone or computer e-mail, or both, and  
522 these efforts must be documented.

523       (10) RULEMAKING. The agency may adopt by rule standards  
524 and procedures relating to the use of restraint, restraint  
525 positioning, seclusion and emergency treatment orders for  
526 psychotropic medications and restraint and seclusion. Such rules  
527 shall include duration of restraint use, staff training, client  
528 observation during restraint, and documentation and reporting  
529 standards.

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

532       400.9979 Background screening; administration and  
533 management.—

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

537       (2) The licensee shall maintain personnel records for each  
538 staff member that contain, at a minimum, documentation of  
539 background screening, if applicable, a job description,  
540 documentation of compliance with all training requirements of





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541 this part or applicable rule, the employment application,  
542 references, a copy of all job performance evaluations, and, for  
543 each staff member who performs services for which licensure or  
544 certification is required, a copy of all licenses or  
545 certification held by the staff member.

546 (3) The licensee must:

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

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

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

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

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

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

564 (g) Obtain approval of the comprehensive emergency  
565 management plan, pursuant to s. 400.9981(2)(e), from the local  
566 emergency management agency. Pending the approval of the plan,  
567 the local emergency management agency shall ensure that the  
568 following agencies, at a minimum, are given the opportunity to



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569 review the plan: the Department of Health, the Agency for Health  
570 Care Administration, and the Division of Emergency Management.  
571 Appropriate volunteer organizations must also be given the  
572 opportunity to review the plan. The local emergency management  
573 agency shall complete its review within 60 days and either  
574 approve the plan or advise the licensee of necessary revisions.

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

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

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

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

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



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

598 400.9980 Property and personal affairs of clients.-

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

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

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

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

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

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



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624 equal to twice the average monthly income of the client, plus  
625 the value of any client's property under the control of the  
626 attorney in fact.

627

628 The bond under paragraph (b) or paragraph (c) shall be executed  
629 by the licensee as principal and a licensed surety company. The  
630 bond shall be conditioned upon the faithful compliance of the  
631 licensee with the requirements of licensure and shall be payable  
632 to the agency for the benefit of any client who suffers a  
633 financial loss as a result of the misuse or misappropriation of  
634 funds held pursuant to this subsection. Any surety company that  
635 cancels or does not renew the bond of any licensee shall notify  
636 the agency in writing not less than 30 days in advance of such  
637 action, giving the reason for the cancellation or nonrenewal.

638 Any licensee, administrator, employee, or representative thereof  
639 who is granted power of attorney for any client of the facility  
640 shall, on a monthly basis, notify the client in writing of any  
641 transaction made on behalf of the client pursuant to this  
642 subsection, and a copy of such notification given to the client  
643 shall be retained in each client's file and available for agency  
644 inspection.

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



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651 hours or more, the licensee may provide for the safekeeping of  
652 the client's personal effects of a value in excess of \$1,000.

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

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

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



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679 2. Borrows from or pledges any personal funds of a client,  
680 other than the amount agreed to by written contract under s.  
681 429.24,

682  
683 commits a misdemeanor of the first degree, punishable as  
684 provided in s. 775.082 or s. 775.083.

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

691 (7) In the event of the death of a client, a licensee  
692 shall return all refunds, funds, and property held in trust to  
693 the client's personal representative, if one has been appointed  
694 at the time the licensee disburses such funds, or, if not, to  
695 the client's spouse or adult next of kin named in a beneficiary  
696 designation form provided by the licensee to the client. If the  
697 client has no spouse or adult next of kin or such person cannot  
698 be located, funds due the client shall be placed in an interest-  
699 bearing account and all property held in trust by the licensee  
700 shall be safeguarded until such time as the funds and property  
701 are disbursed pursuant to the Florida Probate Code. Such funds  
702 shall be kept separate from the funds and property of the  
703 licensee and other clients of the facility. If the funds of the  
704 deceased client are not disbursed pursuant to the Florida  
705 Probate Code within 2 years after the client's death, the funds



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706 shall be deposited in the Health Care Trust Fund administered by  
707 the agency.

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

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

715 400.9981 Rules establishing standards.-

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

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

725 (a) The location of transitional living facilities.

726 (b) The number of qualifications of all personnel,  
727 including management, medical, nursing, and other professional  
728 personnel and nursing assistants and support personnel having  
729 responsibility for any part of the care given to clients. The  
730 licensee must have enough qualified professional staff available  
731 to carry out and monitor the various professional interventions  
732 in accordance with the stated goals and objectives of each  
733 comprehensive treatment plan.



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734 (c) Requirements for personnel procedures, reporting  
735 procedures, and documentation necessary to implement this part.

736 (d) Services provided to clients of transitional living  
737 facilities.

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

748 Section 14. Section 400.9982, Florida Statutes, is created  
749 to read:

750 400.9982 Violations; penalties.-

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

756 (a) Class "I" violations are defined in s. 408.813. The  
757 agency shall issue a citation regardless of correction and  
758 impose an administrative fine of \$5,000 for an isolated  
759 violation, \$7,500 for a patterned violation, and \$10,000 for a  
760 widespread violation. Violations may be identified and a fine





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761 must be levied notwithstanding the correction of the deficiency  
762 giving rise to the violation.

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

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

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

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

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

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



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

797 Section 17. Section 400.805, Florida Statutes, is  
798 repealed. All transitional living facilities licensed under s.  
799 400.805, F.S., on or before July 1, 2013, shall be licensed  
800 under the provisions of this act.

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

803 381.745 Definitions; ss. 381.739-381.79.—As used in ss.  
804 381.739-381.79, the term:

805 (9) "Transitional living facility" for the purpose of this  
806 part, means a state-approved facility, as defined and licensed  
807 under chapter 400 or chapter 429, or a facility approved by the  
808 brain and spinal cord injury program in accordance with this  
809 chapter.

810 Section 19. Section 381.75, Florida Statutes, is amended  
811 to read:

812 381.75 Duties and responsibilities of the department, ~~of~~  
813 ~~transitional living facilities, and of residents.—Consistent~~  
814 with the mandate of s. 381.7395, the department shall develop  
815 and administer a multilevel treatment program for individuals



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816 who sustain brain or spinal cord injuries and who are referred  
817 to the brain and spinal cord injury program.

818 (1) Within 15 days after any report of an individual who  
819 has sustained a brain or spinal cord injury, the department  
820 shall notify the individual or the most immediate available  
821 family members of their right to assistance from the state, the  
822 services available, and the eligibility requirements.

823 (2) The department shall refer individuals who have brain  
824 or spinal cord injuries to other state agencies to assure that  
825 rehabilitative services, if desired, are obtained by that  
826 individual.

827 (3) The department, in consultation with emergency medical  
828 service, shall develop standards for an emergency medical  
829 evacuation system that will ensure that all individuals who  
830 sustain traumatic brain or spinal cord injuries are transported  
831 to a department-approved trauma center that meets the standards  
832 and criteria established by the emergency medical service and  
833 the acute-care standards of the brain and spinal cord injury  
834 program.

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

838 (5) The department shall determine the appropriate number  
839 of designated acute-care facilities, inpatient rehabilitation  
840 centers, and outpatient rehabilitation centers, needed based on  
841 incidence, volume of admissions, and other appropriate criteria.

842 (6) The department shall develop standards for designation  
843 of transitional living facilities to provide transitional living



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844 services for individuals who participate in the brain and spinal  
845 cord injury program. the opportunity to adjust to their  
846 disabilities and to develop physical and functional skills in a  
847 supported living environment.

848 ~~(a) The Agency for Health Care Administration, in~~  
849 ~~consultation with the department, shall develop rules for the~~  
850 ~~licensure of transitional living facilities for individuals who~~  
851 ~~have brain or spinal cord injuries.~~

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

858 ~~(c) A transitional living facility for an individual who~~  
859 ~~has a brain or spinal cord injury shall provide to such~~  
860 ~~individual, in a residential setting, a goal oriented treatment~~  
861 ~~program designed to improve the individual's physical,~~  
862 ~~cognitive, communicative, behavioral, psychological, and social~~  
863 ~~functioning, as well as to provide necessary support and~~  
864 ~~supervision. A transitional living facility shall offer at least~~  
865 ~~the following therapies: physical, occupational, speech,~~  
866 ~~neuropsychology, independent living skills training, behavior~~  
867 ~~analysis for programs serving brain injured individuals, health~~  
868 ~~education, and recreation.~~

869 ~~(d) All residents shall use the transitional living~~  
870 ~~facility as a temporary measure and not as a permanent home or~~  
871 ~~domicile. The transitional living facility shall develop an~~



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872 ~~initial treatment plan for each resident within 3 days after the~~  
873 ~~resident's admission. The transitional living facility shall~~  
874 ~~develop a comprehensive plan of treatment and a discharge plan~~  
875 ~~for each resident as soon as practical, but no later than 30~~  
876 ~~days after the resident's admission. Each comprehensive~~  
877 ~~treatment plan and discharge plan must be reviewed and updated~~  
878 ~~as necessary, but no less often than quarterly. This subsection~~  
879 ~~does not require the discharge of an individual who continues to~~  
880 ~~require any of the specialized services described in paragraph~~  
881 ~~(c) or who is making measurable progress in accordance with that~~  
882 ~~individual's comprehensive treatment plan. The transitional~~  
883 ~~living facility shall discharge any individual who has an~~  
884 ~~appropriate discharge site and who has achieved the goals of his~~  
885 ~~or her discharge plan or who is no longer making progress toward~~  
886 ~~the goals established in the comprehensive treatment plan and~~  
887 ~~the discharge plan. The discharge location must be the least~~  
888 ~~restrictive environment in which an individual's health, well-~~  
889 ~~being, and safety is preserved.~~

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

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

895 381.78 Advisory council on brain and spinal cord  
896 injuries.—

897 (4) The council shall+



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898       (a) Provide advice and expertise to the department in the  
899 preparation, implementation, and periodic review of the brain  
900 and spinal cord injury program.

901       ~~(b) Annually appoint a five member committee composed of~~  
902 ~~one individual who has a brain injury or has a family member~~  
903 ~~with a brain injury, one individual who has a spinal cord injury~~  
904 ~~or has a family member with a spinal cord injury, and three~~  
905 ~~members who shall be chosen from among these representative~~  
906 ~~groups: physicians, other allied health professionals,~~  
907 ~~administrators of brain and spinal cord injury programs, and~~  
908 ~~representatives from support groups with expertise in areas~~  
909 ~~related to the rehabilitation of individuals who have brain or~~  
910 ~~spinal cord injuries, except that one and only one member of the~~  
911 ~~committee shall be an administrator of a transitional living~~  
912 ~~facility. Membership on the council is not a prerequisite for~~  
913 ~~membership on this committee.~~

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

920       ~~2. Factual findings of the committee resulting from an~~  
921 ~~onsite investigation of a facility pursuant to subparagraph 1.~~  
922 ~~shall be adopted by the agency in developing its administrative~~  
923 ~~response regarding enforcement of statutes and rules regulating~~  
924 ~~the operation of the facility.~~



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925 ~~3. Onsite investigations by the committee shall be funded~~  
926 ~~by the Health Care Trust Fund.~~

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

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

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

935 408.802 Applicability.—The provisions of this part apply  
936 to the provision of services that require licensure as defined  
937 in this part and to the following entities licensed, registered,  
938 or certified by the agency, as described in chapters 112, 383,  
939 390, 394, 395, 400, 429, 440, 483, and 765:

940 (21) Transitional living facilities, as provided under  
941 part XI ¶ of chapter 400.

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

944 408.820 Exemptions.—Except as prescribed in authorizing  
945 statutes, the following exemptions shall apply to specified  
946 requirements of this part:

947 (20) Transitional living facilities, as provided under  
948 part XI ¶ of chapter 400, are exempt from s. 408.810(10).

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

951 400.93 Licensure required; exemptions; unlawful acts;  
952 penalties.—



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

959 (a) Providers operated by the Department of Health or  
960 Federal Government.

961 (b) Nursing homes licensed under part II.

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

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

965 (e) Hospices licensed under part IV.

966 (f) Intermediate care facilities, homes for special  
967 services, and transitional living facilities licensed under part  
968 V.

969 (g) Transitional living facilities licensed under part XI.

970 (h)~~(g)~~ Hospitals and ambulatory surgical centers licensed  
971 under chapter 395.

972 (i)~~(h)~~ Manufacturers and wholesale distributors when not  
973 selling directly to consumers.

974 (j)~~(i)~~ Licensed health care practitioners who utilize home  
975 medical equipment in the course of their practice, but do not  
976 sell or rent home medical equipment to their patients.

977 (k)~~(j)~~ Pharmacies licensed under chapter 465.

978 Section 24. This act shall take effect July 1, 2013.

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1005  
1006  
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1008

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**T I T L E   A M E N D M E N T**

Remove everything before the enacting clause and insert:  
An act relating to transitional living facilities; creating part XI of ch. 400, F.S., entitled "Transitional Living Facilities"; creating s. 400.9970, F.S.; providing legislative intent; creating s. 400.9971, F.S.; providing definitions; creating s. 400.9972, F.S.; requiring the licensure of transitional living facilities; providing fees; providing license application requirements; creating s. 400.9973, F.S.; providing requirements for transitional living facilities relating to client admission, transfer, discharge, and length of residency; creating s. 400.9974, F.S.; requiring a comprehensive treatment plan to be developed for each client; providing plan requirements; creating s. 400.9975, F.S.; providing licensee responsibilities; providing notice requirements; prohibiting a licensee or employee of a facility from serving notice upon a client to leave the premises or take other retaliatory action; requiring the client and client's representative to be provided with certain information; requiring the licensee to develop and implement certain policies and procedures; creating s. 400.9976, F.S.; providing licensee requirements relating to medication practices; creating s. 400.9977, F.S.; providing requirements for the screening of potential employees and monitoring of employees for the protection of clients; requiring licensees to implement certain procedures; creating s. 400.9978, F.S.; providing requirements for the use of physical restraints and chemical restraint medication on clients; creating s. 400.9979,



Amendment No.

1009 F.S.; providing background screening requirements; requiring the  
1010 licensee to maintain certain personnel records; providing  
1011 administrative responsibilities for licensees; providing  
1012 recordkeeping requirements; creating s. 400.9980, F.S.;  
1013 providing requirements relating to property and personal affairs  
1014 of clients; providing requirements for a licensee with respect  
1015 to obtaining surety bonds; providing recordkeeping requirements  
1016 relating to the safekeeping of personal effects; providing  
1017 requirements for trust funds received by licensee and credited  
1018 to the client; providing a penalty for certain misuse of a  
1019 resident's personal needs allowance; providing criminal  
1020 penalties for violations; providing for the disposition of  
1021 property in the event of the death of a client; authorizing the  
1022 Agency for Health Care Administration to adopt rules; creating  
1023 s. 400.9981, F.S.; requiring the agency to adopt and enforce  
1024 certain rules; creating s. 400.9982, F.S.; providing procedures  
1025 relating to violations and penalties; providing administrative  
1026 fines for specified classes of violations; creating s. 400.9983,  
1027 F.S.; authorizing the agency to apply certain provisions with  
1028 regard to receivership proceedings; creating s. 400.9984, F.S.;  
1029 requiring the Agency for Health Care Administration, the  
1030 Department of Health, the Agency for Persons with Disabilities,  
1031 and the Department of Children and Families to develop  
1032 electronic systems for certain purposes; repealing s. 400.805,  
1033 F.S., relating to transitional living facilities; amending s.  
1034 381.745, F.S.; revising the definition of transitional living  
1035 facility; amending s. 381.75, F.S.; revising the title; revising  
1036 the duties and responsibilities of the Department of Health



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1109 (2013)

Amendment No.

1037 relating to transitional living facilities; amending s. 381.78,  
1038 F.S.; revising the duties of the Advisory Council on brain and  
1039 spinal cord injuries; amending ss. 408.802, 408.820, and 400.93,  
1040 F.S.; conforming provisions to changes made by the act;  
1041 providing an effective date.

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**HB 1115 : Pub. Rec./Dental Workforce Surveys**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

**Appearances:**

Stoutamire, Casey (Lobbyist) - Waive In Support  
 Florida Dental Association  
 118 E. Jefferson St.  
 Tallahassee FL 32301  
 Phone: (850) 224-1089

Pitts, Brian (General Public) - Information Only  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/CS/HB 1129 : Infants Born Alive**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings			X		
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis				X	
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 15</b>		<b>Total Nays: 0</b>			

**CS/CS/HB 1129 Amendments**

**Amendment 002423**

*Adopted Without Objection*

**Amendment 153261**

*Adopted Without Objection*

**Appearances:**

Bunkley, Bill (Lobbyist) - Waive In Support  
 Florida Ethics and Religious Liberty Commission, Inc.  
 P.O. Box 341644  
 Tampa FL 33694  
 Phone: (813) 264-2977

Tamayo, Lillian - Proponent  
 Florida Alliance of Planned Parenthood Affiliates  
 2300 N. Florida Mango Rd.  
 West Palm Beach FL 33409  
 Phone: (561) 848-6402

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/CS/HB 1129 : Infants Born Alive (continued)**

**Appearances: (continued)**

Wong, Victor (General Public) - Proponent  
CFC  
19630 SW 87 Ave.  
Cutler Bay Fl 33157  
Phone: (305) 878-4586

Olsen, Pam - Waive In Support  
Florida Prayer Network  
PO Box 14017  
Tallahassee FL 32317  
Phone: (850) 906-9170

Hopkins, Sheila (Lobbyist) - Waive In Support  
Florida Conference of Catholic Bishops  
201 W. Park Ave.  
Tallahassee FL 32301-7715  
Phone: (850) 205-6826

Henry, Benjamin - Waive In Support  
Unite Women.Org  
1010 Sharer Ct. 19  
Tallahassee Fl  
Phone: (850)321-6695

Pitts, Brian (General Public) - Waive In Support  
Justice-2-Jesus  
1119 Newton Ave. S.  
St. Petersburg FL 33705  
Phone: (727) 897-9291

Verdugo, Anthony (Lobbyist) - Proponent  
Christian Family Coalition  
PO Box 650216  
Miami Fl 33265  
Phone: (786) 447-6431

Adger, Gail (General Public) - Proponent  
1110 Sussex Dr., #1715  
North Lauderdale Fl 33068  
Phone: (954) 478-2290

Johnson, Sara (Lobbyist) - Waive In Support  
Florida Family Action  
4853 S. Orange Ave.  
Orlando Fl 32806  
Phone: (850) 567-8143

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

1 Committee/Subcommittee hearing bill: Health & Human Services  
 2 Committee  
 3 Representative Edwards offered the following:

**Amendment (with title amendment)**

6 Remove lines 70-73 and insert:  
7 thereunder.

-----  
**T I T L E A M E N D M E N T**

13 Remove lines 12-14 and insert:  
14 requiring a health care



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER	<input type="checkbox"/>	

1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Committee

3 Representative Pigman offered the following:

4  
5 **Amendment**

6 Remove line 84 and insert:

7 (f) This subsection does not affirm, deny, expand, or  
8 contract any  
9



**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**HB 1157 : Health Flex Plans**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

**Appearances:**

Pitts, Brian (General Public) - Information Only  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**CS/HB 1161 : Clinical, Counseling, & Psychotherapy Services**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards			X		
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis	X				
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia	X				
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 17</b>		<b>Total Nays: 0</b>			

**Appearances:**

Akin, Jim - Waive In Support  
 National Association of Social Workers - FI  
 1931 Dellwood Drive  
 Tallahassee FL 32303  
 Phone: (850) 224-2400

Mixon, Corinne (Lobbyist) - Waive In Support  
 Florida Mental Health Counselors Association  
 119 E. Park Ave.  
 Tallahassee FL 32301  
 Phone: (850) 766-5795

Pitts, Brian (General Public) - Information Only  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM

**COMMITTEE MEETING REPORT**  
**Health & Human Services Committee**

**4/4/2013 10:30:00AM**

**Location:** Morris Hall (17 HOB)

**HB 7103 : Cross-Over Youth**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Larry Ahern	X				
Gwyndolen Clarke-Reed	X				
W. Travis Cummings	X				
Katie Edwards	X				
Mike Fasano	X				
Joseph Gibbons	X				
Gayle Harrell	X				
Mia Jones	X				
Shevrin Jones	X				
Mark Pafford	X				
Jimmy Patronis			X		
Cary Pigman	X				
Ronald Renuart	X				
Kenneth Roberson	X				
Elaine Schwartz	X				
John Tobia		X			
John Wood	X				
Richard Corcoran (Chair)	X				
<b>Total Yeas: 16</b>		<b>Total Nays: 1</b>			

**Appearances:**

Sanchez, Ana (Lobbyist) (State Employee) - Waive In Support  
 Department of Juvenile Justice  
 2737 Centerview Dr.  
 Tallahassee FL 32399  
 Phone: (850) 717-2716

Pitts, Brian (General Public) - Information Only  
 Justice-2-Jesus  
 1119 Newton Ave. S.  
 St. Petersburg FL 33705  
 Phone: (727) 897-9291

Committee meeting was reported out: Thursday, April 04, 2013 3:54:47PM