



Health Innovation Subcommittee

**Monday, February 9, 2015
4:00 PM - 6:00 PM
306 HOB**

**Steve Crisafulli
Speaker**

**Kenneth Roberson
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health Innovation Subcommittee

Start Date and Time: Monday, February 09, 2015 04:00 pm
End Date and Time: Monday, February 09, 2015 06:00 pm
Location: 306 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 111 Transitional Living Facilities by Magar
HB 161 Responsibilities of Health Care Facilities by Burton
HB 411 Vaccination of Nursing Home Residents by Miller


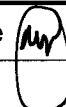
Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Friday, February 6, 2015.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Friday, February 6, 2015.

NOTICE FINALIZED on 02/02/2015 16:04 by Iseminger.Bobbye

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 111 Transitional Living Facilities
SPONSOR(S): Magar
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		Guzzo 	Poche 
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

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

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

Specifically, the bill makes the following changes:

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

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

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

AHCA is the licensing authority for TLFs pursuant to chapter 408, part II, chapter 400, part V, F.S., and Chapter 59A-17, F.A.C.

Compared to other types of facilities regulated by AHCA, the detail and scope of regulations for TLFs in statute and administrative rule is significantly narrower and less restrictive, as the regulations focus more on solvency than resident care.

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

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

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

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

¹ Section 400.805(1)(c), F.S.

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

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

⁴ Section 381.745(2), F.S.

provide services to individuals who are not participants in the BSCIP or to individuals who have a brain or spinal cord injury that was not the result of external trauma.

The Brain and Spinal Cord Injury Advisory Council (Council), created within DOH pursuant to s. 381.78, F.S., is tasked with providing advice and expertise to DOH in the preparation, implementation, and periodic review of the BSCIP. The Council has the same rights to entry and inspection of TLFs as AHCA under s. 400.805(4), F.S.

Investigations concerning allegations of abuse and neglect of vulnerable adults, including those in TLFs, are performed by DCF.⁵

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

Effect of Proposed Changes

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

The bill repeals the current TLF regulations in s. 400.805, F.S., and creates Part XI of chapter 400, F.S., including ss. 400.997 to 400.9985, F.S.

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

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

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

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

⁵ Section 415.104(1), F.S.
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Admission, Transfer and Discharge Requirements

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

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

- Motor deficit.
- Sensory deficit.
- Bowel and bladder dysfunction.
- An injury to the skull, brain, or tis covering which produces an altered state of consciousness or anatomic motor, sensory, cognitive, or behavioral deficits.

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

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

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

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

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

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

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

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

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

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

Client Treatment Plans and Client Services

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

Each comprehensive treatment plan must include the following:

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

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

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

Provider Responsibilities

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

- Lives in a safe environment;
- Is treated with respect, recognition of personal dignity, and privacy;
- Retains use of their own clothes and personal property;
- Has unrestricted private communications, which includes mail, telephone and visitors;
- Participates in community services and activities;
- Manages their financial affairs unless the client or the client's representative authorizes the administrator of the facility to provide safekeeping for funds;
- Has reasonable opportunity for regular exercise and be outdoors more than once per week.
- Exercises civil and religious liberties;
- Has adequate access to appropriate health care services;

- Has the opportunity to present grievances and recommend changes in policies, procedures and services;
- Is enabled to have a representative participate in treatment;
- Receives prompt responses from the facility to communications from family and friends;
- Have visits by individuals with a relationship to the client at any reasonable hour; and
- Has the opportunity to leave the facility to visit and take trips or vacations.

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

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

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

Administration of Medication

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

Assistance with Medication

The bill creates s. 400.9977, F.S., which permits unlicensed direct care services staff that provide client services under chapter 400 or 429, F.S., to administer prescribed, prepackaged and premeasured medications under the supervision of a registered nurse. Medication administration training for unlicensed direct care services staff must be conducted by a physician, pharmacist or registered nurse.

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

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

Client Protection

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

- Screen potential employees for a history of abuse, neglect or mistreatment;
- Train employees on abuse prohibition practices;
- Provide information to clients, families and staff on how and to whom they may report concerns, incidents and grievances without the fear of retribution;
- Identify events that may constitute abuse in order to determine the direction of the investigation;
- Investigate different types of incidents and identify staff members responsible for the initial reporting and reporting of results to the proper authorities;
- Protect clients from harm during an investigation; and
- Report all alleged violations and all substantiated incidents, as required under chapters 39 and 415, F.S., to the appropriate licensing authorities.

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

Restraints and Seclusion

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

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

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

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

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

The bill authorizes AHCA to adopt rules relating to:

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

Background Screening and Administration/Management

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

The bill requires the facility to:

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

Property and Personal Affairs of Clients

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

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

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

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

Rules Establishing Standards

The bill creates s. 400.9981, F.S., to authorize AHCA to adopt rules with "reasonable and fair criteria" regarding the:

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

Penalties and Violations

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

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

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

Receivership Proceedings

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

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

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

A receiver may be appointed from a list of qualified persons developed by AHCA. The receiver must make provisions for the continued health, safety and welfare of all clients, perform all duties set out by

the court, and operate the facility in a manner to assure the safety and adequate health care for clients. The receiver may use all resources and consumable goods in the provision of care services to clients and correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety of clients and staff. The receiver may hire or contract staff to carry out the duties of the receiver. The receiver must also honor all leases and mortgages, and has the power to direct, manage, and discharge employees of the facility.

Interagency Communication

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

B. SECTION DIRECTORY:

- Section 1:** Creates ss. 400.997 through 400.9985, F.S., as part XI of chapter 400, F.S., to be entitled "Transitional Living Facilities".
- Section 2:** Repeals s. 400.805, F.S., relating to transitional living facilities.
- Section 3:** Redesignates the title of part V of chapter 400, F.S., as "Intermediate Care Facilities".
- Section 4:** Amends s. 381.745, F.S., relating to definitions.
- Section 5:** Amends s. 381.75, F.S., relating to duties and responsibilities of the department of transitional living facilities, and of residents.
- Section 6:** Amends s. 381.78, F.S., relating to the advisory council on brain and spinal cord injuries.
- Section 7:** Amends s. 400.93, F.S., relating to licensure required; exemptions; unlawful acts; penalties.
- Section 8:** Amends s. 408.802, F.S., relating to applicability.
- Section 9:** Amends s. 408.820, F.S., relating to exemptions.
- Section 10:** Provides that effective July 1, 2016, a transitional living facility licensed before the effective date of this act pursuant to s. 400.805, F.S., must be licensed under part XI of chapter 400, F.S., as created by the act.
- Section 11:** Provides an effective date of July 1, 2015, except as otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

27 specifying who may conduct training of staff;
 28 requiring licensees to adopt policies and procedures
 29 for administration of medications by trained staff;
 30 requiring the Agency for Health Care Administration to
 31 adopt rules; providing requirements for the screening
 32 of potential employees and training and monitoring of
 33 employees for the protection of clients; requiring
 34 licensees to implement certain policies and procedures
 35 to protect clients; providing conditions for
 36 investigating and reporting incidents of abuse,
 37 neglect, mistreatment, or exploitation of clients;
 38 providing requirements and limitations for the use of
 39 physical restraints, seclusion, and chemical restraint
 40 medication on clients; providing a limitation on the
 41 duration of an emergency treatment order; requiring
 42 notification of certain persons when restraint or
 43 seclusion is imposed; authorizing the agency to adopt
 44 rules; providing background screening requirements;
 45 requiring the licensee to maintain certain personnel
 46 records; providing administrative responsibilities for
 47 licensees; providing recordkeeping requirements;
 48 providing licensee responsibilities with respect to
 49 the property and personal affairs of clients;
 50 providing requirements for a licensee with respect to
 51 obtaining surety bonds; providing recordkeeping
 52 requirements relating to the safekeeping of personal

53 effects; providing requirements for trust funds or
 54 other property received by a licensee and credited to
 55 the client; providing a penalty for certain misuse of
 56 a client's personal funds, property, or personal needs
 57 allowance; providing criminal penalties for
 58 violations; providing for the disposition of property
 59 in the event of the death of a client; authorizing the
 60 agency to adopt rules; providing legislative intent;
 61 authorizing the agency to adopt and enforce rules
 62 establishing standards for transitional living
 63 facilities and personnel thereof; classifying
 64 violations and providing penalties therefor; providing
 65 administrative fines for specified classes of
 66 violations; authorizing the agency to apply certain
 67 provisions with regard to receivership proceedings;
 68 requiring the agency, the Department of Health, the
 69 Agency for Persons with Disabilities, and the
 70 Department of Children and Families to develop
 71 electronic information systems for certain purposes;
 72 repealing s. 400.805, F.S., relating to transitional
 73 living facilities; revising the title of part V of
 74 chapter 400, F.S.; amending s. 381.745, F.S.; revising
 75 the definition of the term "transitional living
 76 facility," to conform; amending s. 381.75, F.S.;
 77 revising the duties of the Department of Health and
 78 the agency relating to transitional living facilities;

79 amending ss. 381.78, 400.93, 408.802, and 408.820,
 80 F.S.; conforming provisions to changes made by the
 81 act; providing applicability with respect to
 82 transitional living facilities licensed before a
 83 specified date; providing effective dates.

84

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

86

87 Section 1. Part XI of chapter 400, Florida Statutes,
 88 consisting of sections 400.997 through 400.9985, is created to
 89 read:

90

PART XI

91

TRANSITIONAL LIVING FACILITIES

92

93 400.997 Legislative intent.—It is the intent of the
 94 Legislature to provide for the licensure of transitional living
 95 facilities and require the development, establishment, and
 96 enforcement of basic standards by the Agency for Health Care
 97 Administration to ensure quality of care and services to clients
 98 in transitional living facilities. It is the policy of the state
 99 that the least restrictive appropriate available treatment be
 100 used based on the individual needs and best interest of the
 101 client, consistent with optimum improvement of the client's
 102 condition. The goal of a transitional living program for persons
 103 who have brain or spinal cord injuries is to assist each person
 104 who has such an injury to achieve a higher level of independent
functioning and to enable the person to reenter the community.

105 It is also the policy of the state that the restraint or
 106 seclusion of a client is justified only as an emergency safety
 107 measure used in response to danger to the client or others. It
 108 is therefore the intent of the Legislature to achieve an ongoing
 109 reduction in the use of restraint or seclusion in programs and
 110 facilities that serve persons who have brain or spinal cord
 111 injuries.

112 400.9971 Definitions.—As used in this part, the term:

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

115 (2) "Chemical restraint" means a pharmacologic drug that
 116 physically limits, restricts, or deprives a person of movement
 117 or mobility, is used for client protection or safety, and is not
 118 required for the treatment of medical conditions or symptoms.

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

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

123 (5) "Physical restraint" means a manual method to restrict
 124 freedom of movement of or normal access to a person's body, or a
 125 physical or mechanical device, material, or equipment attached
 126 or adjacent to the person's body that the person cannot easily
 127 remove and that restricts freedom of movement of or normal
 128 access to the person's body, including, but not limited to, a
 129 half-bed rail, a full-bed rail, a geriatric chair, or a Posey
 130 restraint. The term includes any device that is not specifically

131 manufactured as a restraint but is altered, arranged, or
 132 otherwise used for this purpose. The term does not include
 133 bandage material used for the purpose of binding a wound or
 134 injury.

135 (6) "Seclusion" means the physical segregation of a person
 136 in any fashion or the involuntary isolation of a person in a
 137 room or area from which the person is prevented from leaving.
 138 Such prevention may be accomplished by imposition of a physical
 139 barrier or by action of a staff member to prevent the person
 140 from leaving the room or area. For purposes of this part, the
 141 term does not mean isolation due to a person's medical condition
 142 or symptoms.

143 (7) "Transitional living facility" means a site where
 144 specialized health care services are provided to persons who
 145 have brain or spinal cord injuries, including, but not limited
 146 to, rehabilitative services, behavior modification, community
 147 reentry training, aids for independent living, and counseling.

148 400.9972 License required; fee; application.-

149 (1) The requirements of part II of chapter 408 apply to
 150 the provision of services that require licensure pursuant to
 151 this part and part II of chapter 408 and to entities licensed by
 152 or applying for licensure from the agency pursuant to this part.
 153 A license issued by the agency is required for the operation of
 154 a transitional living facility in this state. However, this part
 155 does not require a provider licensed by the agency to obtain a
 156 separate transitional living facility license to serve persons

157 who have brain or spinal cord injuries as long as the services
 158 provided are within the scope of the provider's license.

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

164 (3) An applicant for licensure must provide:

165 (a) The location of the facility for which the license is
 166 sought and documentation, signed by the appropriate local
 167 government official, which states that the applicant has met
 168 local zoning requirements.

169 (b) Proof of liability insurance as provided in s.
 170 624.605(1)(b).

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

174 (d) Proof that the facility has received a satisfactory
 175 firesafety inspection.

176 (e) Documentation that the facility has received a
 177 satisfactory sanitation inspection by the county health
 178 department.

179 (4) The applicant's proposed facility must attain and
 180 continuously maintain accreditation by an accrediting
 181 organization that specializes in evaluating rehabilitation
 182 facilities whose standards incorporate licensure regulations

183 comparable to those required by the state. An applicant for
 184 licensure as a transitional living facility must acquire
 185 accreditation within 12 months after issuance of an initial
 186 license. The agency shall accept the accreditation survey report
 187 of the accrediting organization in lieu of conducting a
 188 licensure inspection if the standards included in the survey
 189 report are determined by the agency to document that the
 190 facility substantially complies with state licensure
 191 requirements. Within 10 days after receiving the accreditation
 192 survey report, the applicant shall submit to the agency a copy
 193 of the report and evidence of the accreditation decision as a
 194 result of the report. The agency may conduct an inspection of a
 195 transitional living facility to ensure compliance with the
 196 licensure requirements of this part, to validate the inspection
 197 process of the accrediting organization, to respond to licensure
 198 complaints, or to protect the public health and safety.

199 400.9973 Client admission, transfer, and discharge.—

200 (1) A transitional living facility shall have written
 201 policies and procedures governing the admission, transfer, and
 202 discharge of clients.

203 (2) The admission of a client to a transitional living
 204 facility must be in accordance with the licensee's policies and
 205 procedures.

206 (3) A client admitted to a transitional living facility
 207 must have a brain or spinal cord injury, such as a lesion to the
 208 spinal cord or cauda equina syndrome, with evidence of

209 significant involvement of at least two of the following
 210 deficits or dysfunctions:
 211 (a) A motor deficit.
 212 (b) A sensory deficit.
 213 (c) Bowel and bladder dysfunction.
 214 (d) An acquired internal or external injury to the skull,
 215 the brain, or the brain's covering, whether caused by a
 216 traumatic or nontraumatic event, which produces an altered state
 217 of consciousness or an anatomic motor, sensory, cognitive, or
 218 behavioral deficit.
 219 (4) A client whose medical condition and diagnosis do not
 220 positively identify a cause of the client's condition, whose
 221 symptoms are inconsistent with the known cause of injury, or
 222 whose recovery is inconsistent with the known medical condition
 223 may be admitted to a transitional living facility for evaluation
 224 for a period not to exceed 90 days.
 225 (5) A client admitted to a transitional living facility
 226 must be admitted upon prescription by a licensed physician,
 227 physician assistant, or advanced registered nurse practitioner
 228 and must remain under the care of a licensed physician,
 229 physician assistant, or advanced registered nurse practitioner
 230 for the duration of the client's stay in the facility.
 231 (6) A transitional living facility may not admit a person
 232 whose primary admitting diagnosis is mental illness or an
 233 intellectual or developmental disability.
 234 (7) A person may not be admitted to a transitional living

235 facility if the person:

236 (a) Presents significant risk of infection to other
 237 clients or personnel. A health care practitioner must provide
 238 documentation that the person is free of apparent signs and
 239 symptoms of communicable disease;

240 (b) Is a danger to himself or herself or others as
 241 determined by a physician, physician assistant, or advanced
 242 registered nurse practitioner or a mental health practitioner
 243 licensed under chapter 490 or chapter 491, unless the facility
 244 provides adequate staffing and support to ensure patient safety;

245 (c) Is bedridden; or

246 (d) Requires 24-hour nursing supervision.

247 (8) If the client meets the admission criteria, the
 248 medical or nursing director of the facility must complete an
 249 initial evaluation of the client's functional skills, behavioral
 250 status, cognitive status, educational or vocational potential,
 251 medical status, psychosocial status, sensorimotor capacity, and
 252 other related skills and abilities within the first 72 hours
 253 after the client's admission to the facility. An initial
 254 comprehensive treatment plan that delineates services to be
 255 provided and appropriate sources for such services must be
 256 implemented within the first 4 days after admission.

257 (9) A transitional living facility shall develop a
 258 discharge plan for each client before or upon admission to the
 259 facility. The discharge plan must identify the intended
 260 discharge site and possible alternative discharge sites. For

261 each discharge site identified, the discharge plan must identify
 262 the skills, behaviors, and other conditions that the client must
 263 achieve to be eligible for discharge. A discharge plan must be
 264 reviewed and updated as necessary but at least once monthly.

265 (10) A transitional living facility shall discharge a
 266 client as soon as practicable when the client no longer requires
 267 the specialized services described in s. 400.9971(7), when the
 268 client is not making measurable progress in accordance with the
 269 client's comprehensive treatment plan, or when the transitional
 270 living facility is no longer the most appropriate and least
 271 restrictive treatment option.

272 (11) A transitional living facility shall provide at least
 273 30 days' notice to a client of transfer or discharge plans,
 274 including the location of an acceptable transfer location if the
 275 client is unable to live independently. This subsection does not
 276 apply if a client voluntarily terminates residency.

277 400.9974 Client comprehensive treatment plans; client
 278 services.—

279 (1) A transitional living facility shall develop a
 280 comprehensive treatment plan for each client as soon as
 281 practicable but no later than 30 days after the initial
 282 comprehensive treatment plan is developed. The comprehensive
 283 treatment plan must be developed by an interdisciplinary team
 284 consisting of the case manager, the program director, the
 285 advanced registered nurse practitioner, and appropriate
 286 therapists. The client or, if appropriate, the client's

287 representative must be included in developing the comprehensive
 288 treatment plan. The comprehensive treatment plan must be
 289 reviewed and updated if the client fails to meet projected
 290 improvements outlined in the plan or if a significant change in
 291 the client's condition occurs. The comprehensive treatment plan
 292 must be reviewed and updated at least once monthly.

293 (2) The comprehensive treatment plan must include:

294 (a) Orders obtained from the physician, physician
 295 assistant, or advanced registered nurse practitioner and the
 296 client's diagnosis, medical history, physical examination, and
 297 rehabilitative or restorative needs.

298 (b) A preliminary nursing evaluation, including orders for
 299 immediate care provided by the physician, physician assistant,
 300 or advanced registered nurse practitioner, which shall be
 301 completed when the client is admitted.

302 (c) A comprehensive, accurate, reproducible, and
 303 standardized assessment of the client's functional capability;
 304 the treatments designed to achieve skills, behaviors, and other
 305 conditions necessary for the client to return to the community;
 306 and specific measurable goals.

307 (d) Steps necessary for the client to achieve transition
 308 into the community and estimated length of time to achieve those
 309 goals.

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

313 to 3 months. If such consent is not given, the transitional
 314 living facility shall discharge the client as soon as
 315 practicable.

316 (4) A client must receive the professional program
 317 services needed to implement the client's comprehensive
 318 treatment plan.

319 (5) The licensee must employ qualified professional staff
 320 to carry out and monitor the various professional interventions
 321 in accordance with the stated goals and objectives of the
 322 client's comprehensive treatment plan.

323 (6) A client must receive a continuous treatment program
 324 that includes appropriate, consistent implementation of
 325 specialized and general training, treatment, health services,
 326 and related services and that is directed toward:

327 (a) The acquisition of the behaviors and skills necessary
 328 for the client to function with as much self-determination and
 329 independence as possible.

330 (b) The prevention or deceleration of regression or loss
 331 of current optimal functional status.

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

334 400.9975 Licensee responsibilities.-

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

336 (a) Lives in a safe environment free from abuse, neglect,
 337 and exploitation.

338 (b) Is treated with consideration and respect and with due

339 recognition of personal dignity, individuality, and the need for
 340 privacy.

341 (c) Retains and uses his or her own clothes and other
 342 personal property in his or her immediate living quarters to
 343 maintain individuality and personal dignity, except when the
 344 licensee demonstrates that such retention and use would be
 345 unsafe, impractical, or an infringement upon the rights of other
 346 clients.

347 (d) Has unrestricted private communication, including
 348 receiving and sending unopened correspondence, access to a
 349 telephone, and visits with any person of his or her choice. Upon
 350 request, the licensee shall modify visiting hours for caregivers
 351 and guests. The facility shall restrict communication in
 352 accordance with any court order or written instruction of a
 353 client's representative. Any restriction on a client's
 354 communication for therapeutic reasons shall be documented and
 355 reviewed at least weekly and shall be removed as soon as no
 356 longer clinically indicated. The basis for the restriction shall
 357 be explained to the client and, if applicable, the client's
 358 representative. The client shall retain the right to call the
 359 central abuse hotline, the agency, and Disability Rights Florida
 360 at any time.

361 (e) Has the opportunity to participate in and benefit from
 362 community services and activities to achieve the highest
 363 possible level of independence, autonomy, and interaction within
 364 the community.

365 (f) Has the opportunity to manage his or her financial
 366 affairs unless the client or, if applicable, the client's
 367 representative authorizes the administrator of the facility to
 368 provide safekeeping for funds as provided under this part.

369 (g) Has reasonable opportunity for regular exercise more
 370 than once per week and to be outdoors at regular and frequent
 371 intervals except when prevented by inclement weather.

372 (h) Has the opportunity to exercise civil and religious
 373 liberties, including the right to independent personal
 374 decisions. However, a religious belief or practice, including
 375 attendance at religious services, may not be imposed upon any
 376 client.

377 (i) Has access to adequate and appropriate health care
 378 consistent with established and recognized community standards.

379 (j) Has the opportunity to present grievances and
 380 recommend changes in policies, procedures, and services to the
 381 staff of the licensee, governing officials, or any other person
 382 without restraint, interference, coercion, discrimination, or
 383 reprisal. A licensee shall establish a grievance procedure to
 384 facilitate a client's ability to present grievances, including a
 385 system for investigating, tracking, managing, and responding to
 386 complaints by a client or, if applicable, the client's
 387 representative and an appeals process. The appeals process must
 388 include access to Disability Rights Florida and other advocates
 389 and the right to be a member of, be active in, and associate
 390 with advocacy or special interest groups.

391 (2) The licensee shall:
 392 (a) Promote participation of the client's representative
 393 in the process of providing treatment to the client unless the
 394 representative's participation is unobtainable or inappropriate.
 395 (b) Answer communications from the client's family,
 396 guardians, and friends promptly and appropriately.
 397 (c) Promote visits by persons with a relationship to the
 398 client at any reasonable hour, without requiring prior notice,
 399 in any area of the facility that provides direct care services
 400 to the client, consistent with the client's and other clients'
 401 privacy, unless the interdisciplinary team determines that such
 402 a visit would not be appropriate.
 403 (d) Promote opportunities for the client to leave the
 404 facility for visits, trips, or vacations.
 405 (e) Promptly notify the client's representative of a
 406 significant incident or change in the client's condition,
 407 including, but not limited to, serious illness, accident, abuse,
 408 unauthorized absence, or death.
 409 (3) The administrator of a facility shall ensure that a
 410 written notice of licensee responsibilities is posted in a
 411 prominent place in each building where clients reside and is
 412 read or explained to clients who cannot read. This notice shall
 413 be provided to clients in a manner that is clearly legible,
 414 shall include the statewide toll-free telephone number for
 415 reporting complaints to the agency, and shall include the words:
 416 "To report a complaint regarding the services you receive,

417 please call toll-free ...[telephone number]... or Disability
 418 Rights Florida ...[telephone number]...." The statewide toll-
 419 free telephone number for the central abuse hotline shall be
 420 provided to clients in a manner that is clearly legible and
 421 shall include the words: "To report abuse, neglect, or
 422 exploitation, please call toll-free ...[telephone number]...."
 423 The licensee shall ensure a client's access to a telephone where
 424 telephone numbers are posted as required by this subsection.

425 (4) A licensee or employee of a facility may not serve
 426 notice upon a client to leave the premises or take any other
 427 retaliatory action against another person solely because of the
 428 following:

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

431 (b) The client or other person appears as a witness in a
 432 hearing inside or outside the facility.

433 (5) Before or at the time of admission, the client and, if
 434 applicable, the client's representative shall receive a copy of
 435 the licensee's responsibilities, including grievance procedures
 436 and telephone numbers, as provided in this section.

437 (6) The licensee must develop and implement policies and
 438 procedures governing the release of client information,
 439 including consent necessary from the client or, if applicable,
 440 the client's representative.

441 400.9976 Administration of medication.-

442 (1) An individual medication administration record must be

443 maintained for each client. A dose of medication, including a
 444 self-administered dose, shall be properly recorded in the
 445 client's record. A client who self-administers medication shall
 446 be given a pill organizer. Medication must be placed in the pill
 447 organizer by a nurse. A nurse shall document the date and time
 448 that medication is placed into each client's pill organizer. All
 449 medications must be administered in compliance with orders of a
 450 physician, physician assistant, or advanced registered nurse
 451 practitioner.

452 (2) If an interdisciplinary team determines that self-
 453 administration of medication is an appropriate objective, and if
 454 the physician, physician assistant, or advanced registered nurse
 455 practitioner does not specify otherwise, the client must be
 456 instructed by the physician, physician assistant, or advanced
 457 registered nurse practitioner to self-administer his or her
 458 medication without the assistance of a staff person. All forms
 459 of self-administration of medication, including administration
 460 orally, by injection, and by suppository, shall be included in
 461 the training. The client's physician, physician assistant, or
 462 advanced registered nurse practitioner must be informed of the
 463 interdisciplinary team's decision that self-administration of
 464 medication is an objective for the client. A client may not
 465 self-administer medication until he or she demonstrates the
 466 competency to take the correct medication in the correct dosage
 467 at the correct time, to respond to missed doses, and to contact
 468 the appropriate person with questions.

469 (3) Medication administration discrepancies and adverse
 470 drug reactions must be recorded and reported immediately to a
 471 physician, physician assistant, or advanced registered nurse
 472 practitioner.

473 400.9977 Assistance with medication.—

474 (1) Notwithstanding any provision of part I of chapter
 475 464, the Nurse Practice Act, unlicensed direct care services
 476 staff who provide services to clients in a facility licensed
 477 under chapter 400 or chapter 429 may administer prescribed,
 478 prepackaged, and premeasured medications under the general
 479 supervision of a registered nurse as provided under this section
 480 and applicable rules.

481 (2) Training required by this section and applicable rules
 482 shall be conducted by a registered nurse licensed under chapter
 483 464, a physician licensed under chapter 458 or chapter 459, or a
 484 pharmacist licensed under chapter 465.

485 (3) A facility that allows unlicensed direct care service
 486 staff to administer medications pursuant to this section shall:

487 (a) Develop and implement policies and procedures that
 488 include a plan to ensure the safe handling, storage, and
 489 administration of prescription medications.

490 (b) Maintain written evidence of the expressed and
 491 informed consent for each client.

492 (c) Maintain a copy of the written prescription, including
 493 the name of the medication, the dosage, and the administration
 494 schedule and termination date.

495 (d) Maintain documentation of compliance with required
 496 training.

497 (4) The agency shall adopt rules to implement this
 498 section.

499 400.9978 Protection of clients from abuse, neglect,
 500 mistreatment, and exploitation.—The licensee shall develop and
 501 implement policies and procedures for the screening and training
 502 of employees; the protection of clients; and the prevention,
 503 identification, investigation, and reporting of abuse, neglect,
 504 mistreatment, and exploitation. The licensee shall identify
 505 clients whose personal histories render them at risk for abusing
 506 other clients, develop intervention strategies to prevent
 507 occurrences of abuse, monitor clients for changes that would
 508 trigger abusive behavior, and reassess the interventions on a
 509 regular basis. A licensee shall:

510 (1) Screen each potential employee for a history of abuse,
 511 neglect, mistreatment, or exploitation of clients. The screening
 512 shall include an attempt to obtain information from previous and
 513 current employers and verification of screening information by
 514 the appropriate licensing boards.

515 (2) Train employees through orientation and ongoing
 516 sessions regarding issues related to abuse prohibition
 517 practices, including identification of abuse, neglect,
 518 mistreatment, and exploitation; appropriate interventions to
 519 address aggressive or catastrophic reactions of clients; the
 520 process for reporting allegations without fear of reprisal; and

521 recognition of signs of frustration and stress that may lead to
 522 abuse.

523 (3) Provide clients, families, and staff with information
 524 regarding how and to whom they may report concerns, incidents,
 525 and grievances without fear of retribution and provide feedback
 526 regarding the concerns that are expressed. A licensee shall
 527 identify, correct, and intervene in situations in which abuse,
 528 neglect, mistreatment, or exploitation is likely to occur,
 529 including:

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

533 (b) Providing sufficient staff on each shift to meet the
 534 needs of the clients and ensuring that the assigned staff have
 535 knowledge of each client's care needs.

536 (c) Identifying inappropriate staff behaviors, such as
 537 using derogatory language, rough handling of clients, ignoring
 538 clients while giving care, and directing clients who need
 539 toileting assistance to urinate or defecate in their beds.

540 (d) Assessing, monitoring, and planning care for clients
 541 with needs and behaviors that might lead to conflict or neglect,
 542 such as a history of aggressive behaviors including entering
 543 other clients' rooms without permission, exhibiting self-
 544 injurious behaviors or communication disorders, requiring
 545 intensive nursing care, or being totally dependent on staff.

546 (4) Identify events, such as suspicious bruising of

547 clients, occurrences, patterns, and trends that may constitute
 548 abuse and determine the direction of the investigation.

549 (5) Investigate alleged violations and different types of
 550 incidents, identify the staff member responsible for initial
 551 reporting, and report results to the proper authorities. The
 552 licensee shall analyze the incidents to determine whether
 553 policies and procedures need to be changed to prevent further
 554 incidents and take necessary corrective actions.

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

556 (7) Report alleged violations and substantiated incidents,
 557 as required under chapters 39 and 415, to the licensing
 558 authorities and all other agencies, as required, and report any
 559 knowledge of actions by a court of law that would indicate an
 560 employee is unfit for service.

561 400.9979 Restraint and seclusion; client safety.-

562 (1) A facility shall provide a therapeutic milieu that
 563 supports a culture of individual empowerment and responsibility.
 564 The health and safety of the client shall be the facility's
 565 primary concern at all times.

566 (2) The use of physical restraints must be ordered and
 567 documented by a physician, physician assistant, or advanced
 568 registered nurse practitioner and must be consistent with the
 569 policies and procedures adopted by the facility. The client or,
 570 if applicable, the client's representative shall be informed of
 571 the facility's physical restraint policies and procedures when
 572 the client is admitted.

573 (3) The use of chemical restraints shall be limited to
 574 prescribed dosages of medications as ordered by a physician,
 575 physician assistant, or advanced registered nurse practitioner
 576 and must be consistent with the client's diagnosis and the
 577 policies and procedures adopted by the facility. The client and,
 578 if applicable, the client's representative shall be informed of
 579 the facility's chemical restraint policies and procedures when
 580 the client is admitted.

581 (4) Based on the assessment by a physician, physician
 582 assistant, or advanced registered nurse practitioner, if a
 583 client exhibits symptoms that present an immediate risk of
 584 injury or death to himself or herself or others, a physician,
 585 physician assistant, or advanced registered nurse practitioner
 586 may issue an emergency treatment order to immediately administer
 587 rapid-response psychotropic medications or other chemical
 588 restraints. Each emergency treatment order must be documented
 589 and maintained in the client's record.

590 (a) An emergency treatment order is not effective for more
 591 than 24 hours.

592 (b) Whenever a client is medicated under this subsection,
 593 the client's representative or a responsible party and the
 594 client's physician, physician assistant, or advanced registered
 595 nurse practitioner shall be notified as soon as practicable.

596 (5) A client who is prescribed and receives a medication
 597 that can serve as a chemical restraint for a purpose other than
 598 an emergency treatment order must be evaluated by his or her

599 physician, physician assistant, or advanced registered nurse
 600 practitioner at least monthly to assess:

601 (a) The continued need for the medication.

602 (b) The level of the medication in the client's blood.

603 (c) The need for adjustments to the prescription.

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

607 (7) The licensee may only employ physical restraints and
 608 seclusion as authorized by the facility's written policies,
 609 which shall comply with this section and applicable rules.

610 (8) Interventions to manage dangerous client behavior
 611 shall be employed with sufficient safeguards and supervision to
 612 ensure that the safety, welfare, and civil and human rights of a
 613 client are adequately protected.

614 (9) A facility shall notify the parent, guardian, or, if
 615 applicable, the client's representative when restraint or
 616 seclusion is employed. The facility must provide the
 617 notification within 24 hours after the restraint or seclusion is
 618 employed. Reasonable efforts must be taken to notify the parent,
 619 guardian, or, if applicable, the client's representative by
 620 telephone or e-mail, or both, and these efforts must be
 621 documented.

622 (10) The agency may adopt rules that establish standards
 623 and procedures for the use of restraints, restraint positioning,
 624 seclusion, and emergency treatment orders for psychotropic

625 medications, restraint, and seclusion. These rules must include
 626 duration of restraint, staff training, observation of the client
 627 during restraint, and documentation and reporting standards.

628 400.998 Personnel background screening; administration and
 629 management procedures.-

630 (1) The agency shall require level 2 background screening
 631 for licensee personnel as required in s. 408.809(1)(e) and
 632 pursuant to chapter 435 and s. 408.809.

633 (2) The licensee shall maintain personnel records for each
 634 staff member that contain, at a minimum, documentation of
 635 background screening, a job description, documentation of
 636 compliance with the training requirements of this part and
 637 applicable rules, the employment application, references, a copy
 638 of each job performance evaluation, and, for each staff member
 639 who performs services for which licensure or certification is
 640 required, a copy of all licenses or certification held by that
 641 staff member.

642 (3) The licensee must:

643 (a) Develop and implement infection control policies and
 644 procedures and include the policies and procedures in the
 645 licensee's policy manual.

646 (b) Maintain liability insurance as defined in s.
 647 624.605(1)(b).

648 (c) Designate one person as an administrator to be
 649 responsible and accountable for the overall management of the
 650 facility.

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

654 (e) Designate in writing a program director to be
 655 responsible for supervising the therapeutic and behavioral
 656 staff, determining the levels of supervision, and determining
 657 room placement for each client.

658 (f) Designate in writing a person to be responsible when
 659 the program director is absent from the facility for more than
 660 24 hours.

661 (g) Obtain approval of the comprehensive emergency
 662 management plan, pursuant to s. 400.9982(2)(e), from the local
 663 emergency management agency. Pending the approval of the plan,
 664 the local emergency management agency shall ensure that the
 665 following agencies, at a minimum, are given the opportunity to
 666 review the plan: the Department of Health, the Agency for Health
 667 Care Administration, and the Division of Emergency Management.
 668 Appropriate volunteer organizations shall also be given the
 669 opportunity to review the plan. The local emergency management
 670 agency shall complete its review within 60 days after receipt of
 671 the plan and either approve the plan or advise the licensee of
 672 necessary revisions.

673 (h) Maintain written records in a form and system that
 674 comply with medical and business practices and make the records
 675 available by the facility for review or submission to the agency
 676 upon request. The records shall include:

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

680 2. A record of each accident or unusual incident involving
 681 a client or staff member that caused, or had the potential to
 682 cause, injury or harm to any person or property within the
 683 facility. The record shall contain a clear description of each
 684 accident or incident; the names of the persons involved; a
 685 description of medical or other services provided to these
 686 persons, including the provider of the services; and the steps
 687 taken to prevent recurrence of such accident or incident.

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

690 4. A copy of current agreements with each consultant
 691 employed by the licensee and documentation of a consultant's
 692 visits and required written and dated reports.

693 400.9981 Property and personal affairs of clients.—

694 (1) A client shall be given the option of using his or her
 695 own belongings, as space permits; choosing a roommate if
 696 practical and not clinically contraindicated; and, whenever
 697 possible, unless the client is adjudicated incompetent or
 698 incapacitated under state law, managing his or her own affairs.

699 (2) The admission of a client to a facility and his or her
 700 presence therein does not confer on a licensee or administrator,
 701 or an employee or representative thereof, any authority to
 702 manage, use, or dispose of the property of the client, and the

703 admission or presence of a client does not confer on such person
 704 any authority or responsibility for the personal affairs of the
 705 client except that which may be necessary for the safe
 706 management of the facility or for the safety of the client.

707 (3) A licensee or administrator, or an employee or
 708 representative thereof, may:

709 (a) Not act as the guardian, trustee, or conservator for a
 710 client or a client's property.

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

717 (c) Act as the attorney in fact for a client if the
 718 licensee files a surety bond with the agency in an amount equal
 719 to twice the average monthly income of the client, plus the
 720 value of a client's property under the control of the attorney
 721 in fact.

722
 723 The surety bond required under paragraph (b) or paragraph (c)
 724 shall be executed by the licensee as principal and a licensed
 725 surety company. The bond shall be conditioned upon the faithful
 726 compliance of the licensee with the requirements of licensure
 727 and is payable to the agency for the benefit of a client who
 728 suffers a financial loss as a result of the misuse or

729 misappropriation of funds held pursuant to this subsection. A
 730 surety company that cancels or does not renew the bond of a
 731 licensee shall notify the agency in writing at least 30 days
 732 before the action, giving the reason for cancellation or
 733 nonrenewal. A licensee or administrator, or an employee or
 734 representative thereof, who is granted power of attorney for a
 735 client of the facility shall, on a monthly basis, notify the
 736 client in writing of any transaction made on behalf of the
 737 client pursuant to this subsection, and a copy of the
 738 notification given to the client shall be retained in the
 739 client's file and available for agency inspection.

740 (4) A licensee, with the consent of the client, shall
 741 provide for safekeeping in the facility of the client's personal
 742 effects of a value not in excess of \$1,000 and the client's
 743 funds not in excess of \$500 cash and shall keep complete and
 744 accurate records of the funds and personal effects received. If
 745 a client is absent from a facility for 24 hours or more, the
 746 licensee may provide for safekeeping of the client's personal
 747 effects of a value in excess of \$1,000.

748 (5) Funds or other property belonging to or due to a
 749 client or expendable for the client's account that are received
 750 by a licensee shall be regarded as funds held in trust and shall
 751 be kept separate from the funds and property of the licensee and
 752 other clients or shall be specifically credited to the client.
 753 The funds held in trust shall be used or otherwise expended only
 754 for the account of the client. At least once every month, except

755 pursuant to an order of a court of competent jurisdiction, the
 756 licensee shall furnish the client and, if applicable, the
 757 client's representative with a complete and verified statement
 758 of all funds and other property to which this subsection
 759 applies, detailing the amount and items received, together with
 760 their sources and disposition. The licensee shall furnish the
 761 statement annually and upon discharge or transfer of a client. A
 762 governmental agency or private charitable agency contributing
 763 funds or other property to the account of a client is also
 764 entitled to receive a statement monthly and upon the discharge
 765 or transfer of the client.

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

768 1. Intentionally withholds a client's personal funds,
 769 personal property, or personal needs allowance;

770 2. Demands, beneficially receives, or contracts for
 771 payment of all or any part of a client's personal property or
 772 personal needs allowance in satisfaction of the facility rate
 773 for supplies and services; or

774 3. Borrows from or pledges any personal funds of a client,
 775 other than the amount agreed to by written contract under s.
 776 429.24,

777
 778 commits a misdemeanor of the first degree, punishable as
 779 provided in s. 775.082 or s. 775.083.

780 (b) A licensee or administrator, or an employee, or

781 representative thereof, who is granted power of attorney for a
 782 client and who misuses or misappropriates funds obtained through
 783 this power commits a felony of the third degree, punishable as
 784 provided in s. 775.082, s. 775.083, or s. 775.084.

785 (7) In the event of the death of a client, a licensee
 786 shall return all refunds, funds, and property held in trust to
 787 the client's personal representative, if one has been appointed
 788 at the time the licensee disburses such funds, or, if not, to
 789 the client's spouse or adult next of kin named in a beneficiary
 790 designation form provided by the licensee to the client. If the
 791 client does not have a spouse or adult next of kin or such
 792 person cannot be located, funds due to be returned to the client
 793 shall be placed in an interest-bearing account, and all property
 794 held in trust by the licensee shall be safeguarded until such
 795 time as the funds and property are disbursed pursuant to the
 796 Florida Probate Code. The funds shall be kept separate from the
 797 funds and property of the licensee and other clients of the
 798 facility. If the funds of the deceased client are not disbursed
 799 pursuant to the Florida Probate Code within 2 years after the
 800 client's death, the funds shall be deposited in the Health Care
 801 Trust Fund administered by the agency.

802 (8) The agency, by rule, may clarify terms and specify
 803 procedures and documentation necessary to administer the
 804 provisions of this section relating to the proper management of
 805 clients' funds and personal property and the execution of surety
 806 bonds.

807 400.9982 Rules establishing standards.-

808 (1) It is the intent of the Legislature that rules adopted
 809 and enforced pursuant to this part and part II of chapter 408
 810 include criteria to ensure reasonable and consistent quality of
 811 care and client safety. The rules should make reasonable efforts
 812 to accommodate the needs and preferences of the client to
 813 enhance the client's quality of life while residing in a
 814 transitional living facility.

815 (2) The agency may adopt and enforce rules to implement
 816 this part and part II of chapter 408, which shall include
 817 reasonable and fair criteria with respect to:

818 (a) The location of transitional living facilities.

819 (b) The qualifications of personnel, including management,
 820 medical, nursing, and other professional personnel and nursing
 821 assistants and support staff, who are responsible for client
 822 care. The licensee must employ enough qualified professional
 823 staff to carry out and monitor interventions in accordance with
 824 the stated goals and objectives of each comprehensive treatment
 825 plan.

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

828 (d) Services provided to clients of transitional living
 829 facilities.

830 (e) The preparation and annual update of a comprehensive
 831 emergency management plan in consultation with the Division of
 832 Emergency Management. At a minimum, the rules must provide for

833 plan components that address emergency evacuation
 834 transportation; adequate sheltering arrangements; postdisaster
 835 activities, including provision of emergency power, food, and
 836 water; postdisaster transportation; supplies; staffing;
 837 emergency equipment; individual identification of clients and
 838 transfer of records; communication with families; and responses
 839 to family inquiries.

840 400.9983 Violations; penalties.—A violation of this part
 841 or any rule adopted pursuant thereto shall be classified
 842 according to the nature of the violation and the gravity of its
 843 probable effect on facility clients. The agency shall indicate
 844 the classification on the written notice of the violation as
 845 follows:

846 (1) Class "I" violations are defined in s. 408.813. The
 847 agency shall issue a citation regardless of correction and
 848 impose an administrative fine of \$5,000 for an isolated
 849 violation, \$7,500 for a patterned violation, or \$10,000 for a
 850 widespread violation. Violations may be identified, and a fine
 851 must be levied, notwithstanding the correction of the deficiency
 852 giving rise to the violation.

853 (2) Class "II" violations are defined in s. 408.813. The
 854 agency shall impose an administrative fine of \$1,000 for an
 855 isolated violation, \$2,500 for a patterned violation, or \$5,000
 856 for a widespread violation. A fine must be levied
 857 notwithstanding the correction of the deficiency giving rise to
 858 the violation.

859 (3) Class "III" violations are defined in s. 408.813. The
 860 agency shall impose an administrative fine of \$500 for an
 861 isolated violation, \$750 for a patterned violation, or \$1,000
 862 for a widespread violation. If a deficiency giving rise to a
 863 class III violation is corrected within the time specified by
 864 the agency, the fine may not be imposed.

865 (4) Class "IV" violations are defined in s. 408.813. The
 866 agency shall impose for a cited class IV violation an
 867 administrative fine of at least \$100 but not exceeding \$200 for
 868 each violation. If a deficiency giving rise to a class IV
 869 violation is corrected within the time specified by the agency,
 870 the fine may not be imposed.

871 400.9984 Receivership proceedings.—The agency may apply s.
 872 429.22 with regard to receivership proceedings for transitional
 873 living facilities.

874 400.9985 Interagency communication.—The agency, the
 875 department, the Agency for Persons with Disabilities, and the
 876 Department of Children and Families shall develop electronic
 877 systems to ensure that relevant information pertaining to the
 878 regulation of transitional living facilities and clients is
 879 timely and effectively communicated among agencies in order to
 880 facilitate the protection of clients. Electronic sharing of
 881 information shall include, at a minimum, a brain and spinal cord
 882 injury registry and a client abuse registry.

883 Section 2. Section 400.805, Florida Statutes, is repealed.

884 Section 3. The title of part V of chapter 400, Florida

885 Statutes, consisting of sections 400.701 and 400.801, is
 886 redesignated as "INTERMEDIATE CARE FACILITIES."

887 Section 4. Subsection (9) of section 381.745, Florida
 888 Statutes, is amended to read:

889 381.745 Definitions; ss. 381.739-381.79.—As used in ss.
 890 381.739-381.79, the term:

891 (9) "Transitional living facility" means a state-approved
 892 facility, ~~as defined and licensed under chapter 400 or chapter~~
 893 ~~429, or a facility approved by the brain and spinal cord injury~~
 894 ~~program in accordance with this chapter.~~

895 Section 5. Section 381.75, Florida Statutes, is amended to
 896 read:

897 381.75 Duties and responsibilities of the department, ~~of~~
 898 ~~transitional living facilities, and of residents.~~—Consistent
 899 with the mandate of s. 381.7395, the department shall develop
 900 and administer a multilevel treatment program for individuals
 901 who sustain brain or spinal cord injuries and who are referred
 902 to the brain and spinal cord injury program.

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

908 (2) The department shall refer individuals who have brain
 909 or spinal cord injuries to other state agencies to ensure ~~assure~~
 910 that rehabilitative services, if desired, are obtained by that

911 individual.

912 (3) The department, in consultation with emergency medical
 913 service, shall develop standards for an emergency medical
 914 evacuation system that will ensure that all individuals who
 915 sustain traumatic brain or spinal cord injuries are transported
 916 to a department-approved trauma center that meets the standards
 917 and criteria established by the emergency medical service and
 918 the acute-care standards of the brain and spinal cord injury
 919 program.

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

923 (5) The department shall determine the appropriate number
 924 of designated acute-care facilities, inpatient rehabilitation
 925 centers, and outpatient rehabilitation centers, needed based on
 926 incidence, volume of admissions, and other appropriate criteria.

927 (6) The department shall develop standards for designation
 928 of transitional living facilities to provide transitional living
 929 services for individuals who participate in the brain and spinal
 930 cord injury program ~~the opportunity to adjust to their~~
 931 ~~disabilities and to develop physical and functional skills in a~~
 932 ~~supported living environment.~~

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

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

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

954 ~~(d) All residents shall use the transitional living~~
 955 ~~facility as a temporary measure and not as a permanent home or~~
 956 ~~domicile. The transitional living facility shall develop an~~
 957 ~~initial treatment plan for each resident within 3 days after the~~
 958 ~~resident's admission. The transitional living facility shall~~
 959 ~~develop a comprehensive plan of treatment and a discharge plan~~
 960 ~~for each resident as soon as practical, but no later than 30~~
 961 ~~days after the resident's admission. Each comprehensive~~
 962 ~~treatment plan and discharge plan must be reviewed and updated~~

963 ~~as necessary, but no less often than quarterly. This subsection~~
 964 ~~does not require the discharge of an individual who continues to~~
 965 ~~require any of the specialized services described in paragraph~~
 966 ~~(c) or who is making measurable progress in accordance with that~~
 967 ~~individual's comprehensive treatment plan. The transitional~~
 968 ~~living facility shall discharge any individual who has an~~
 969 ~~appropriate discharge site and who has achieved the goals of his~~
 970 ~~or her discharge plan or who is no longer making progress toward~~
 971 ~~the goals established in the comprehensive treatment plan and~~
 972 ~~the discharge plan. The discharge location must be the least~~
 973 ~~restrictive environment in which an individual's health, well-~~
 974 ~~being, and safety is preserved.~~

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

978 Section 6. Subsection (4) of section 381.78, Florida
 979 Statutes, is amended to read:

980 381.78 Advisory council on brain and spinal cord
 981 injuries.-

982 (4) The council shall+

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

986 ~~(b) Annually appoint a five-member committee composed of~~
 987 ~~one individual who has a brain injury or has a family member~~
 988 ~~with a brain injury, one individual who has a spinal cord injury~~

989 ~~or has a family member with a spinal cord injury, and three~~
 990 ~~members who shall be chosen from among these representative~~
 991 ~~groups: physicians, other allied health professionals,~~
 992 ~~administrators of brain and spinal cord injury programs, and~~
 993 ~~representatives from support groups with expertise in areas~~
 994 ~~related to the rehabilitation of individuals who have brain or~~
 995 ~~spinal cord injuries, except that one and only one member of the~~
 996 ~~committee shall be an administrator of a transitional living~~
 997 ~~facility. Membership on the council is not a prerequisite for~~
 998 ~~membership on this committee.~~

999 ~~1. The committee shall perform onsite visits to those~~
 1000 ~~transitional living facilities identified by the Agency for~~
 1001 ~~Health Care Administration as being in possible violation of the~~
 1002 ~~statutes and rules regulating such facilities. The committee~~
 1003 ~~members have the same rights of entry and inspection granted~~
 1004 ~~under s. 400.805(4) to designated representatives of the agency.~~

1005 ~~2. Factual findings of the committee resulting from an~~
 1006 ~~onsite investigation of a facility pursuant to subparagraph 1.~~
 1007 ~~shall be adopted by the agency in developing its administrative~~
 1008 ~~response regarding enforcement of statutes and rules regulating~~
 1009 ~~the operation of the facility.~~

1010 ~~3. Onsite investigations by the committee shall be funded~~
 1011 ~~by the Health Care Trust Fund.~~

1012 ~~4. Travel expenses for committee members shall be~~
 1013 ~~reimbursed in accordance with s. 112.061.~~

1014 ~~5. Members of the committee shall recuse themselves from~~

1015 ~~participating in any investigation that would create a conflict~~
 1016 ~~of interest under state law, and the council shall replace the~~
 1017 ~~member, either temporarily or permanently.~~

1018 Section 7. Subsection (5) of section 400.93, Florida
 1019 Statutes, is amended to read:

1020 400.93 Licensure required; exemptions; unlawful acts;
 1021 penalties.-

1022 (5) The following are exempt from home medical equipment
 1023 provider licensure, unless they have a separate company,
 1024 corporation, or division that is in the business of providing
 1025 home medical equipment and services for sale or rent to
 1026 consumers at their regular or temporary place of residence
 1027 pursuant to the provisions of this part:

1028 (a) Providers operated by the Department of Health or
 1029 Federal Government.

1030 (b) Nursing homes licensed under part II.

1031 (c) Assisted living facilities licensed under chapter 429,
 1032 when serving their residents.

1033 (d) Home health agencies licensed under part III.

1034 (e) Hospices licensed under part IV.

1035 (f) Intermediate care facilities and, homes for special
 1036 services, ~~and transitional living facilities~~ licensed under part
 1037 v.

1038 (g) Transitional living facilities licensed under part XI.

1039 ~~(h) (g)~~ Hospitals and ambulatory surgical centers licensed
 1040 under chapter 395.

1041 ~~(i)(h)~~ Manufacturers and wholesale distributors when not
 1042 selling directly to consumers.

1043 ~~(j)(i)~~ Licensed health care practitioners who use ~~utilize~~
 1044 home medical equipment in the course of their practice, but do
 1045 not sell or rent home medical equipment to their patients.

1046 ~~(k)(j)~~ Pharmacies licensed under chapter 465.

1047 Section 8. Subsection (21) of section 408.802, Florida
 1048 Statutes, is amended to read:

1049 408.802 Applicability.—The provisions of this part apply
 1050 to the provision of services that require licensure as defined
 1051 in this part and to the following entities licensed, registered,
 1052 or certified by the agency, as described in chapters 112, 383,
 1053 390, 394, 395, 400, 429, 440, 483, and 765:

1054 (21) Transitional living facilities, as provided under
 1055 part XI ~~¶~~ of chapter 400.

1056 Section 9. Subsection (20) of section 408.820, Florida
 1057 Statutes, is amended to read:

1058 408.820 Exemptions.—Except as prescribed in authorizing
 1059 statutes, the following exemptions shall apply to specified
 1060 requirements of this part:

1061 (20) Transitional living facilities, as provided under
 1062 part XI ~~¶~~ of chapter 400, are exempt from s. 408.810(10).

1063 Section 10. Effective July 1, 2016, a transitional living
 1064 facility licensed before the effective date of this act pursuant
 1065 to s. 400.805, Florida Statutes, must be licensed under part XI
 1066 of chapter 400, Florida Statutes, as created by this act.

HB 111

2015

1067 Section 11. Except as otherwise expressly provided in this
1068 act, this act shall take effect July 1, 2015.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 111 (2015)

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 Innovation
2 Subcommittee

3 Representative Magar offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Part XI of chapter 400, Florida Statutes,
8 consisting of sections 400.997 through 400.9986, is created to
9 read:

10

PART XI

11

TRANSITIONAL LIVING FACILITIES

12

13 400.997 Legislative intent.—It is the intent of the
14 Legislature to provide for the licensure of transitional living
15 facilities and require the development, establishment, and
16 enforcement of basic standards by the Agency for Health Care
17 Administration to ensure quality of care and services to clients
in transitional living facilities. It is the policy of the state

Amendment No.

18 that the least restrictive appropriate available treatment be
19 used based on the individual needs and best interest of the
20 client, consistent with optimum improvement of the client's
21 condition. The goal of a transitional living program for persons
22 who have brain or spinal cord injuries is to assist each person
23 who has such an injury to achieve a higher level of independent
24 functioning and to enable the person to reenter the community.
25 It is also the policy of the state that the restraint or
26 seclusion of a client is justified only as an emergency safety
27 measure used in response to danger to the client or others. It
28 is therefore the intent of the Legislature to achieve an ongoing
29 reduction in the use of restraint or seclusion in programs and
30 facilities that serve persons who have brain or spinal cord
31 injuries.

32 400.9971 Definitions.—As used in this part, the term:

33 (1) "Agency" means the Agency for Health Care
34 Administration.

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

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

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

Amendment No.

43 (5) "Physical restraint" means a manual method to restrict
44 freedom of movement of or normal access to a person's body, or a
45 physical or mechanical device, material, or equipment attached
46 or adjacent to the person's body that the person cannot easily
47 remove and that restricts freedom of movement of or normal
48 access to the person's body, including, but not limited to, a
49 half-bed rail, a full-bed rail, a geriatric chair, or a Posey
50 restraint. The term includes any device that is not specifically
51 manufactured as a restraint but is altered, arranged, or
52 otherwise used for this purpose. The term does not include
53 bandage material used for the purpose of binding a wound or
54 injury.

55 (6) "Seclusion" means the physical segregation of a person
56 in any fashion or the involuntary isolation of a person in a
57 room or area from which the person is prevented from leaving.
58 Such prevention may be accomplished by imposition of a physical
59 barrier or by action of a staff member to prevent the person
60 from leaving the room or area. For purposes of this part, the
61 term does not mean isolation due to a person's medical condition
62 or symptoms.

63 (7) "Transitional living facility" means a site where
64 specialized health care services are provided to persons who
65 have brain or spinal cord injuries, including, but not limited
66 to, rehabilitative services, behavior modification, community
67 reentry training, aids for independent living, and counseling.

68 400.9972 License required; fee; application.-

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 111 (2015)

Amendment No.

69 (1) The requirements of part II of chapter 408 apply to
70 the provision of services that require licensure pursuant to
71 this part and part II of chapter 408 and to entities licensed by
72 or applying for licensure from the agency pursuant to this part.
73 A license issued by the agency is required for the operation of
74 a transitional living facility in this state. However, this part
75 does not require a provider licensed by the agency to obtain a
76 separate transitional living facility license to serve persons
77 who have brain or spinal cord injuries as long as the services
78 provided are within the scope of the provider's license.

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

84 (3) An applicant for licensure must provide:

85 (a) The location of the facility for which the license is
86 sought and documentation, signed by the appropriate local
87 government official, which states that the applicant has met
88 local zoning requirements.

89 (b) Proof of liability insurance as provided in s.
90 624.605(1)(b).

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

Amendment No.

94 (d) Proof that the facility has received a satisfactory
95 firesafety inspection.

96 (e) Documentation that the facility has received a
97 satisfactory sanitation inspection by the county health
98 department.

99 (4) The applicant's proposed facility must attain and
100 continuously maintain accreditation by an accrediting
101 organization that specializes in evaluating rehabilitation
102 facilities whose standards incorporate licensure regulations
103 comparable to those required by the state. An applicant for
104 licensure as a transitional living facility must acquire
105 accreditation within 12 months after issuance of an initial
106 license. The agency shall accept the accreditation survey report
107 of the accrediting organization in lieu of conducting a
108 licensure inspection if the standards included in the survey
109 report are determined by the agency to document that the
110 facility substantially complies with state licensure
111 requirements. Within 10 days after receiving the accreditation
112 survey report, the applicant shall submit to the agency a copy
113 of the report and evidence of the accreditation decision as a
114 result of the report. The agency may conduct an inspection of a
115 transitional living facility to ensure compliance with the
116 licensure requirements of this part, to validate the inspection
117 process of the accrediting organization, to respond to licensure
118 complaints, or to protect the public health and safety.

119 400.9973 Client admission, transfer, and discharge.-

Amendment No.

120 (1) A transitional living facility shall have written
121 policies and procedures governing the admission, transfer, and
122 discharge of clients.

123 (2) The admission of a client to a transitional living
124 facility must be in accordance with the licensee's policies and
125 procedures.

126 (3) To be admitted to a transitional living facility, an
127 individual must have an acquired internal or external injury to
128 the skull, the brain, or the brain's covering, caused by a
129 traumatic or nontraumatic event, which produces an altered state
130 of consciousness, or a spinal cord injury, such as a lesion to
131 the spinal cord or cauda equina syndrome, with evidence of
132 significant involvement of at least two of the following
133 deficits or dysfunctions:

134 (a) A motor deficit.

135 (b) A sensory deficit.

136 (c) A cognitive deficit.

137 (d) A behavioral deficit.

138 (e) Bowel and bladder dysfunction.

139 (4) A client whose medical condition and diagnosis do not
140 positively identify a cause of the client's condition, whose
141 symptoms are inconsistent with the known cause of injury, or
142 whose recovery is inconsistent with the known medical condition
143 may be admitted to a transitional living facility for evaluation
144 for a period not to exceed 90 days.

Amendment No.

145 (5) A client admitted to a transitional living facility
146 must be admitted upon prescription by a licensed physician,
147 physician assistant, or advanced registered nurse practitioner
148 and must remain under the care of a licensed physician,
149 physician assistant, or advanced registered nurse practitioner
150 for the duration of the client's stay in the facility.

151 (6) A transitional living facility may not admit a person
152 whose primary admitting diagnosis is mental illness or an
153 intellectual or developmental disability.

154 (7) A person may not be admitted to a transitional living
155 facility if the person:

156 (a) Presents significant risk of infection to other
157 clients or personnel. A health care practitioner must provide
158 documentation that the person is free of apparent signs and
159 symptoms of communicable disease;

160 (b) Is a danger to himself or herself or others as
161 determined by a physician, physician assistant, or advanced
162 registered nurse practitioner or a mental health practitioner
163 licensed under chapter 490 or chapter 491, unless the facility
164 provides adequate staffing and support to ensure patient safety;

165 (c) Is bedridden; or

166 (d) Requires 24-hour nursing supervision.

167 (8) If the client meets the admission criteria, the
168 medical or nursing director of the facility must complete an
169 initial evaluation of the client's functional skills, behavioral
170 status, cognitive status, educational or vocational potential,

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171 medical status, psychosocial status, sensorimotor capacity, and
172 other related skills and abilities within the first 72 hours
173 after the client's admission to the facility. An initial
174 comprehensive treatment plan that delineates services to be
175 provided and appropriate sources for such services must be
176 implemented within the first 4 days after admission.

177 (9) A transitional living facility shall develop a
178 discharge plan for each client before or upon admission to the
179 facility. The discharge plan must identify the intended
180 discharge site and possible alternative discharge sites. For
181 each discharge site identified, the discharge plan must identify
182 the skills, behaviors, and other conditions that the client must
183 achieve to be eligible for discharge. A discharge plan must be
184 reviewed and updated as necessary but at least once monthly.

185 (10) A transitional living facility shall discharge a
186 client as soon as practicable when the client no longer requires
187 the specialized services described in s. 400.9971(7), when the
188 client is not making measurable progress in accordance with the
189 client's comprehensive treatment plan, or when the transitional
190 living facility is no longer the most appropriate and least
191 restrictive treatment option.

192 (11) A transitional living facility shall provide at least
193 30 days' notice to a client of transfer or discharge plans,
194 including the location of an acceptable transfer location if the
195 client is unable to live independently. This subsection does not
196 apply if a client voluntarily terminates residency.

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197 400.9974 Client comprehensive treatment plans; client
198 services.-

199 (1) A transitional living facility shall develop a
200 comprehensive treatment plan for each client as soon as
201 practicable but no later than 30 days after the initial
202 comprehensive treatment plan is developed. The comprehensive
203 treatment plan must be developed by an interdisciplinary team
204 consisting of the case manager, the program director, the
205 advanced registered nurse practitioner, and appropriate
206 therapists. The client or, if appropriate, the client's
207 representative must be included in developing the comprehensive
208 treatment plan. The comprehensive treatment plan must be
209 reviewed and updated if the client fails to meet projected
210 improvements outlined in the plan or if a significant change in
211 the client's condition occurs. The comprehensive treatment plan
212 must be reviewed and updated at least once monthly.

213 (2) The comprehensive treatment plan must include:

214 (a) Orders obtained from the physician, physician
215 assistant, or advanced registered nurse practitioner and the
216 client's diagnosis, medical history, physical examination, and
217 rehabilitative or restorative needs.

218 (b) A preliminary nursing evaluation, including orders for
219 immediate care provided by the physician, physician assistant,
220 or advanced registered nurse practitioner, which shall be
221 completed when the client is admitted.

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222 (c) A comprehensive, accurate, reproducible, and
223 standardized assessment of the client's functional capability;
224 the treatments designed to achieve skills, behaviors, and other
225 conditions necessary for the client to return to the community;
226 and specific measurable goals.

227 (d) Steps necessary for the client to achieve transition
228 into the community and estimated length of time to achieve those
229 goals.

230 (3) The client or, if appropriate, the client's
231 representative must consent to the continued treatment at the
232 transitional living facility. Consent may be for a period of up
233 to 6 months. If such consent is not given, the transitional
234 living facility shall discharge the client as soon as
235 practicable.

236 (4) A client must receive the professional program
237 services needed to implement the client's comprehensive
238 treatment plan.

239 (5) The licensee must employ qualified professional staff
240 to carry out and monitor the various professional interventions
241 in accordance with the stated goals and objectives of the
242 client's comprehensive treatment plan.

243 (6) A client must receive a continuous treatment program
244 that includes appropriate, consistent implementation of
245 specialized and general training, treatment, health services,
246 and related services and that is directed toward:

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247 (a) The acquisition of the behaviors and skills necessary
248 for the client to function with as much self-determination and
249 independence as possible.

250 (b) The prevention or deceleration of regression or loss
251 of current optimal functional status.

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

254 400.9975 Licensee responsibilities.-

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

256 (a) Lives in a safe environment free from abuse, neglect,
257 and exploitation.

258 (b) Is treated with consideration and respect and with due
259 recognition of personal dignity, individuality, and the need for
260 privacy.

261 (c) Retains and uses his or her own clothes and other
262 personal property in his or her immediate living quarters to
263 maintain individuality and personal dignity, except when the
264 licensee demonstrates that such retention and use would be
265 unsafe, impractical, or an infringement upon the rights of other
266 clients.

267 (d) Has unrestricted private communication, including
268 receiving and sending unopened correspondence, access to a
269 telephone, and visits with any person of his or her choice. Upon
270 request, the licensee shall modify visiting hours for caregivers
271 and guests. The facility shall restrict communication in
272 accordance with any court order or written instruction of a

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273 client's representative. Any restriction on a client's
274 communication for therapeutic reasons shall be documented and
275 reviewed at least weekly and shall be removed as soon as no
276 longer clinically indicated. The basis for the restriction shall
277 be explained to the client and, if applicable, the client's
278 representative. The client shall retain the right to call the
279 central abuse hotline, the agency, and Disability Rights Florida
280 at any time.

281 (e) Has the opportunity to participate in and benefit from
282 community services and activities to achieve the highest
283 possible level of independence, autonomy, and interaction within
284 the community.

285 (f) Has the opportunity to manage his or her financial
286 affairs unless the client or, if applicable, the client's
287 representative authorizes the administrator of the facility to
288 provide safekeeping for funds as provided under this part.

289 (g) Has reasonable opportunity for regular exercise more
290 than once per week and to be outdoors at regular and frequent
291 intervals except when prevented by inclement weather.

292 (h) Has the opportunity to exercise civil and religious
293 liberties, including the right to independent personal
294 decisions. However, a religious belief or practice, including
295 attendance at religious services, may not be imposed upon any
296 client.

297 (i) Has access to adequate and appropriate health care
298 consistent with established and recognized community standards.

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299 (j) Has the opportunity to present grievances and
300 recommend changes in policies, procedures, and services to the
301 staff of the licensee, governing officials, or any other person
302 without restraint, interference, coercion, discrimination, or
303 reprisal. A licensee shall establish a grievance procedure to
304 facilitate a client's ability to present grievances, including a
305 system for investigating, tracking, managing, and responding to
306 complaints by a client or, if applicable, the client's
307 representative and an appeals process. The appeals process must
308 include access to Disability Rights Florida and other advocates
309 and the right to be a member of, be active in, and associate
310 with advocacy or special interest groups.

311 (2) The licensee shall:

312 (a) Promote participation of the client's representative
313 in the process of providing treatment to the client unless the
314 representative's participation is unobtainable or inappropriate.

315 (b) Answer communications from the client's family,
316 guardians, and friends promptly and appropriately.

317 (c) Promote visits by persons with a relationship to the
318 client at any reasonable hour, without requiring prior notice,
319 in any area of the facility that provides direct care services
320 to the client, consistent with the client's and other clients'
321 privacy, unless the interdisciplinary team determines that such
322 a visit would not be appropriate.

323 (d) Promote opportunities for the client to leave the
324 facility for visits, trips, or vacations.

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325 (e) Promptly notify the client's representative of a
326 significant incident or change in the client's condition,
327 including, but not limited to, serious illness, accident, abuse,
328 unauthorized absence, or death.

329 (3) The administrator of a facility shall ensure that a
330 written notice of licensee responsibilities is posted in a
331 prominent place in each building where clients reside and is
332 read or explained to clients who cannot read. This notice shall
333 be provided to clients in a manner that is clearly legible,
334 shall include the statewide toll-free telephone number for
335 reporting complaints to the agency, and shall include the words:
336 "To report a complaint regarding the services you receive,
337 please call toll-free ... [telephone number]... or Disability
338 Rights Florida ... [telephone number]...." The statewide toll-
339 free telephone number for the central abuse hotline shall be
340 provided to clients in a manner that is clearly legible and
341 shall include the words: "To report abuse, neglect, or
342 exploitation, please call toll-free ... [telephone number]...."
343 The licensee shall ensure a client's access to a telephone where
344 telephone numbers are posted as required by this subsection.

345 (4) A licensee or employee of a facility may not serve
346 notice upon a client to leave the premises or take any other
347 retaliatory action against another person solely because of the
348 following:

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

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351 (b) The client or other person appears as a witness in a
352 hearing inside or outside the facility.

353 (5) Before or at the time of admission, the client and, if
354 applicable, the client's representative shall receive a copy of
355 the licensee's responsibilities, including grievance procedures
356 and telephone numbers, as provided in this section.

357 (6) The licensee must develop and implement policies and
358 procedures governing the release of client information,
359 including consent necessary from the client or, if applicable,
360 the client's representative.

361 400.9976 Administration of medication.—

362 (1) An individual medication administration record must be
363 maintained for each client. A dose of medication, including a
364 self-administered dose, shall be properly recorded in the
365 client's record. A client who self-administers medication shall
366 be given a pill organizer. Medication must be placed in the pill
367 organizer by a nurse. A nurse shall document the date and time
368 that medication is placed into each client's pill organizer. All
369 medications must be administered in compliance with orders of a
370 physician, physician assistant, or advanced registered nurse
371 practitioner.

372 (2) If an interdisciplinary team determines that self-
373 administration of medication is an appropriate objective, and if
374 the physician, physician assistant, or advanced registered nurse
375 practitioner does not specify otherwise, the client must be
376 instructed by the physician, physician assistant, or advanced

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377 registered nurse practitioner to self-administer his or her
378 medication without the assistance of a staff person. All forms
379 of self-administration of medication, including administration
380 orally, by injection, and by suppository, shall be included in
381 the training. The client's physician, physician assistant, or
382 advanced registered nurse practitioner must be informed of the
383 interdisciplinary team's decision that self-administration of
384 medication is an objective for the client. A client may not
385 self-administer medication until he or she demonstrates the
386 competency to take the correct medication in the correct dosage
387 at the correct time, to respond to missed doses, and to contact
388 the appropriate person with questions.

389 (3) Medication administration discrepancies and adverse
390 drug reactions must be recorded and reported immediately to a
391 physician, physician assistant, or advanced registered nurse
392 practitioner.

393 400.9977 Assistance with medication.-

394 (1) Notwithstanding any provision of part I of chapter
395 464, the Nurse Practice Act, unlicensed direct care services
396 staff who provide services to clients in a facility licensed
397 under this part may administer prescribed, prepackaged, and
398 premeasured medications after the completion of training in
399 medication administration and under the general supervision of a
400 registered nurse as provided under this section and applicable
401 rules.

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402 (2) Training required by this section and applicable rules
403 shall be conducted by a registered nurse licensed under chapter
404 464, a physician licensed under chapter 458 or chapter 459, or a
405 pharmacist licensed under chapter 465.

406 (3) A facility that allows unlicensed direct care service
407 staff to administer medications pursuant to this section shall:

408 (a) Develop and implement policies and procedures that
409 include a plan to ensure the safe handling, storage, and
410 administration of prescription medications.

411 (b) Maintain written evidence of the expressed and
412 informed consent for each client.

413 (c) Maintain a copy of the written prescription, including
414 the name of the medication, the dosage, and the administration
415 schedule and termination date.

416 (d) Maintain documentation of compliance with required
417 training.

418 (4) The agency shall adopt rules to implement this
419 section.

420 400.9978 Protection of clients from abuse, neglect,
421 mistreatment, and exploitation.—The licensee shall develop and
422 implement policies and procedures for the screening and training
423 of employees; the protection of clients; and the prevention,
424 identification, investigation, and reporting of abuse, neglect,
425 mistreatment, and exploitation. The licensee shall identify
426 clients whose personal histories render them at risk for abusing
427 other clients, develop intervention strategies to prevent

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428 occurrences of abuse, monitor clients for changes that would
429 trigger abusive behavior, and reassess the interventions on a
430 regular basis. A licensee shall:

431 (1) Screen each potential employee for a history of abuse,
432 neglect, mistreatment, or exploitation of clients. The screening
433 shall include an attempt to obtain information from previous and
434 current employers and verification of screening information by
435 the appropriate licensing boards.

436 (2) Train employees through orientation and ongoing
437 sessions regarding issues related to abuse prohibition
438 practices, including identification of abuse, neglect,
439 mistreatment, and exploitation; appropriate interventions to
440 address aggressive or catastrophic reactions of clients; the
441 process for reporting allegations without fear of reprisal; and
442 recognition of signs of frustration and stress that may lead to
443 abuse.

444 (3) Provide clients, families, and staff with information
445 regarding how and to whom they may report concerns, incidents,
446 and grievances without fear of retribution and provide feedback
447 regarding the concerns that are expressed. A licensee shall
448 identify, correct, and intervene in situations in which abuse,
449 neglect, mistreatment, or exploitation is likely to occur,
450 including:

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

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454 (b) Providing sufficient staff on each shift to meet the
455 needs of the clients and ensuring that the assigned staff have
456 knowledge of each client's care needs.

457 (c) Identifying inappropriate staff behaviors, such as
458 using derogatory language, rough handling of clients, ignoring
459 clients while giving care, and directing clients who need
460 toileting assistance to urinate or defecate in their beds.

461 (d) Assessing, monitoring, and planning care for clients
462 with needs and behaviors that might lead to conflict or neglect,
463 such as a history of aggressive behaviors including entering
464 other clients' rooms without permission, exhibiting self-
465 injurious behaviors or communication disorders, requiring
466 intensive nursing care, or being totally dependent on staff.

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

470 (5) Investigate alleged violations and different types of
471 incidents, identify the staff member responsible for initial
472 reporting, and report results to the proper authorities. The
473 licensee shall analyze the incidents to determine whether
474 policies and procedures need to be changed to prevent further
475 incidents and take necessary corrective actions.

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

477 (7) Report alleged violations and substantiated incidents,
478 as required under chapters 39 and 415, to the licensing
479 authorities and all other agencies, as required, and report any

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480 knowledge of actions by a court of law that would indicate an
481 employee is unfit for service.

482 400.9979 Restraint and seclusion; client safety.-

483 (1) A facility shall provide a therapeutic milieu that
484 supports a culture of individual empowerment and responsibility.
485 The health and safety of the client shall be the facility's
486 primary concern at all times.

487 (2) The use of physical restraints must be ordered and
488 documented by a physician, physician assistant, or advanced
489 registered nurse practitioner and must be consistent with the
490 policies and procedures adopted by the facility. The client or,
491 if applicable, the client's representative shall be informed of
492 the facility's physical restraint policies and procedures when
493 the client is admitted.

494 (3) The use of chemical restraints shall be limited to
495 prescribed dosages of medications as ordered by a physician,
496 physician assistant, or advanced registered nurse practitioner
497 and must be consistent with the client's diagnosis and the
498 policies and procedures adopted by the facility. The client and,
499 if applicable, the client's representative shall be informed of
500 the facility's chemical restraint policies and procedures when
501 the client is admitted.

502 (4) Based on the assessment by a physician, physician
503 assistant, or advanced registered nurse practitioner, if a
504 client exhibits symptoms that present an immediate risk of
505 injury or death to himself or herself or others, a physician,

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506 physician assistant, or advanced registered nurse practitioner
507 may issue an emergency treatment order to immediately administer
508 rapid-response psychotropic medications or other chemical
509 restraints. Each emergency treatment order must be documented
510 and maintained in the client's record.

511 (a) An emergency treatment order is not effective for more
512 than 24 hours.

513 (b) Whenever a client is medicated under this subsection,
514 the client's representative or a responsible party and the
515 client's physician, physician assistant, or advanced registered
516 nurse practitioner shall be notified as soon as practicable.

517 (5) A client who is prescribed and receives a medication
518 that can serve as a chemical restraint for a purpose other than
519 an emergency treatment order must be evaluated by his or her
520 physician, physician assistant, or advanced registered nurse
521 practitioner at least monthly to assess:

522 (a) The continued need for the medication.

523 (b) The level of the medication in the client's blood.

524 (c) The need for adjustments to the prescription.

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

528 (7) The licensee may only employ physical restraints and
529 seclusion as authorized by the facility's written policies,
530 which shall comply with this section and applicable rules.

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531 (8) Interventions to manage dangerous client behavior
532 shall be employed with sufficient safeguards and supervision to
533 ensure that the safety, welfare, and civil and human rights of a
534 client are adequately protected.

535 (9) A facility shall notify the parent, guardian, or, if
536 applicable, the client's representative when restraint or
537 seclusion is employed. The facility must provide the
538 notification within 24 hours after the restraint or seclusion is
539 employed. Reasonable efforts must be taken to notify the parent,
540 guardian, or, if applicable, the client's representative by
541 telephone or e-mail, or both, and these efforts must be
542 documented.

543 (10) The agency may adopt rules that establish standards
544 and procedures for the use of restraints, restraint positioning,
545 seclusion, and emergency treatment orders for psychotropic
546 medications, restraint, and seclusion. If rules are adopted, the
547 rules must include duration of restraint, staff training,
548 observation of the client during restraint, and documentation
549 and reporting standards.

550 400.998 Personnel background screening; administration and
551 management procedures.—

552 (1) The agency shall require level 2 background screening
553 for licensee personnel as required in s. 408.809(1)(e) and
554 pursuant to chapter 435 and s. 408.809.

555 (2) The licensee shall maintain personnel records for each
556 staff member that contain, at a minimum, documentation of

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557 background screening, a job description, documentation of
558 compliance with the training requirements of this part and
559 applicable rules, the employment application, references, a copy
560 of each job performance evaluation, and, for each staff member
561 who performs services for which licensure or certification is
562 required, a copy of all licenses or certification held by that
563 staff member.

564 (3) The licensee must:

565 (a) Develop and implement infection control policies and
566 procedures and include the policies and procedures in the
567 licensee's policy manual.

568 (b) Maintain liability insurance as defined in s.
569 624.605(1)(b).

570 (c) Designate one person as an administrator to be
571 responsible and accountable for the overall management of the
572 facility.

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

576 (e) Designate in writing a program director to be
577 responsible for supervising the therapeutic and behavioral
578 staff, determining the levels of supervision, and determining
579 room placement for each client.

580 (f) Designate in writing a person to be responsible when
581 the program director is absent from the facility for more than
582 24 hours.

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583 (g) Obtain approval of the comprehensive emergency
584 management plan, pursuant to s. 400.9982(2)(e), from the local
585 emergency management agency. Pending the approval of the plan,
586 the local emergency management agency shall ensure that the
587 following agencies, at a minimum, are given the opportunity to
588 review the plan: the Department of Health, the Agency for Health
589 Care Administration, and the Division of Emergency Management.
590 Appropriate volunteer organizations shall also be given the
591 opportunity to review the plan. The local emergency management
592 agency shall complete its review within 60 days after receipt of
593 the plan and either approve the plan or advise the licensee of
594 necessary revisions.

595 (h) Maintain written records in a form and system that
596 comply with medical and business practices and make the records
597 available by the facility for review or submission to the agency
598 upon request. The records shall include:

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

602 2. A record of each accident or unusual incident involving
603 a client or staff member that caused, or had the potential to
604 cause, injury or harm to any person or property within the
605 facility. The record shall contain a clear description of each
606 accident or incident; the names of the persons involved; a
607 description of medical or other services provided to these

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608 persons, including the provider of the services; and the steps
609 taken to prevent recurrence of such accident or incident.

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

612 4. A copy of current agreements with each consultant
613 employed by the licensee and documentation of a consultant's
614 visits and required written and dated reports.

615 400.9981 Property and personal affairs of clients.-

616 (1) A client shall be given the option of using his or her
617 own belongings, as space permits; choosing a roommate if
618 practical and not clinically contraindicated; and, whenever
619 possible, unless the client is adjudicated incompetent or
620 incapacitated under state law, managing his or her own affairs.

621 (2) The admission of a client to a facility and his or her
622 presence therein does not confer on a licensee or administrator,
623 or an employee or representative thereof, any authority to
624 manage, use, or dispose of the property of the client, and the
625 admission or presence of a client does not confer on such person
626 any authority or responsibility for the personal affairs of the
627 client except that which may be necessary for the safe
628 management of the facility or for the safety of the client.

629 (3) A licensee or administrator, or an employee or
630 representative thereof, may:

631 (a) Not act as the guardian, trustee, or conservator for a
632 client or a client's property.

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

639 (c) Act as the attorney in fact for a client if the
640 licensee files a surety bond with the agency in an amount equal
641 to twice the average monthly income of the client, plus the
642 value of a client's property under the control of the attorney
643 in fact.

644

645 The surety bond required under paragraph (b) or paragraph (c)
646 shall be executed by the licensee as principal and a licensed
647 surety company. The bond shall be conditioned upon the faithful
648 compliance of the licensee with the requirements of licensure
649 and is payable to the agency for the benefit of a client who
650 suffers a financial loss as a result of the misuse or
651 misappropriation of funds held pursuant to this subsection. A
652 surety company that cancels or does not renew the bond of a
653 licensee shall notify the agency in writing at least 30 days
654 before the action, giving the reason for cancellation or
655 nonrenewal. A licensee or administrator, or an employee or
656 representative thereof, who is granted power of attorney for a
657 client of the facility shall, on a monthly basis, notify the
658 client in writing of any transaction made on behalf of the

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659 client pursuant to this subsection, and a copy of the
660 notification given to the client shall be retained in the
661 client's file and available for agency inspection.

662 (4) A licensee, with the consent of the client, shall
663 provide for safekeeping in the facility of the client's personal
664 effects of a value not in excess of \$1,000 and the client's
665 funds not in excess of \$500 cash and shall keep complete and
666 accurate records of the funds and personal effects received. If
667 a client is absent from a facility for 24 hours or more, the
668 licensee may provide for safekeeping of the client's personal
669 effects of a value in excess of \$1,000.

670 (5) Funds or other property belonging to or due to a
671 client or expendable for the client's account that are received
672 by a licensee shall be regarded as funds held in trust and shall
673 be kept separate from the funds and property of the licensee and
674 other clients or shall be specifically credited to the client.
675 The funds held in trust shall be used or otherwise expended only
676 for the account of the client. At least once every month, except
677 pursuant to an order of a court of competent jurisdiction, the
678 licensee shall furnish the client and, if applicable, the
679 client's representative with a complete and verified statement
680 of all funds and other property to which this subsection
681 applies, detailing the amount and items received, together with
682 their sources and disposition. The licensee shall furnish the
683 statement annually and upon discharge or transfer of a client. A
684 governmental agency or private charitable agency contributing

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685 funds or other property to the account of a client is also
686 entitled to receive a statement monthly and upon the discharge
687 or transfer of the client.

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

690 1. Intentionally withholds a client's personal funds,
691 personal property, or personal needs allowance;

692 2. Demands, beneficially receives, or contracts for
693 payment of all or any part of a client's personal property or
694 personal needs allowance in satisfaction of the facility rate
695 for supplies and services; or

696 3. Borrows from or pledges any personal funds of a client,
697 other than the amount agreed to by written contract under s.
698 429.24,

699
700 commits a misdemeanor of the first degree, punishable as
701 provided in s. 775.082 or s. 775.083.

702 (b) A licensee or administrator, or an employee, or
703 representative thereof, who is granted power of attorney for a
704 client and who misuses or misappropriates funds obtained through
705 this power commits a felony of the third degree, punishable as
706 provided in s. 775.082, s. 775.083, or s. 775.084.

707 (7) In the event of the death of a client, a licensee
708 shall return all refunds, funds, and property held in trust to
709 the client's personal representative, if one has been appointed
710 at the time the licensee disburses such funds, or, if not, to

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711 the client's spouse or adult next of kin named in a beneficiary
712 designation form provided by the licensee to the client. If the
713 client does not have a spouse or adult next of kin or such
714 person cannot be located, funds due to be returned to the client
715 shall be placed in an interest-bearing account, and all property
716 held in trust by the licensee shall be safeguarded until such
717 time as the funds and property are disbursed pursuant to the
718 Florida Probate Code. The funds shall be kept separate from the
719 funds and property of the licensee and other clients of the
720 facility. If the funds of the deceased client are not disbursed
721 pursuant to the Florida Probate Code within 2 years after the
722 client's death, the funds shall be deposited in the Health Care
723 Trust Fund administered by the agency.

724 (8) The agency, by rule, may clarify terms and specify
725 procedures and documentation necessary to administer the
726 provisions of this section relating to the proper management of
727 clients' funds and personal property and the execution of surety
728 bonds.

729 400.9982 Rules establishing standards.-

730 (1) It is the intent of the Legislature that rules adopted
731 and enforced pursuant to this part and part II of chapter 408
732 include criteria to ensure reasonable and consistent quality of
733 care and client safety. The rules should make reasonable efforts
734 to accommodate the needs and preferences of the client to
735 enhance the client's quality of life while residing in a
736 transitional living facility.

Amendment No.

737 (2) The agency may adopt and enforce rules to implement
738 this part and part II of chapter 408, which may include
739 reasonable and fair criteria with respect to:

740 (a) The location of transitional living facilities.

741 (b) The qualifications of personnel, including management,
742 medical, nursing, and other professional personnel and nursing
743 assistants and support staff, who are responsible for client
744 care. The licensee must employ enough qualified professional
745 staff to carry out and monitor interventions in accordance with
746 the stated goals and objectives of each comprehensive treatment
747 plan.

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

750 (d) Services provided to clients of transitional living
751 facilities.

752 (e) The preparation and annual update of a comprehensive
753 emergency management plan in consultation with the Division of
754 Emergency Management. At a minimum, the rules must provide for
755 plan components that address emergency evacuation
756 transportation; adequate sheltering arrangements; postdisaster
757 activities, including provision of emergency power, food, and
758 water; postdisaster transportation; supplies; staffing;
759 emergency equipment; individual identification of clients and
760 transfer of records; communication with families; and responses
761 to family inquiries.

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762 400.9983 Violations; penalties.—A violation of this part
763 or any rule adopted pursuant thereto shall be classified
764 according to the nature of the violation and the gravity of its
765 probable effect on facility clients. The agency shall indicate
766 the classification on the written notice of the violation as
767 follows:

768 (1) Class "I" violations are defined in s. 408.813. The
769 agency shall issue a citation regardless of correction and
770 impose an administrative fine of \$5,000 for an isolated
771 violation, \$7,500 for a patterned violation, or \$10,000 for a
772 widespread violation. Violations may be identified, and a fine
773 must be levied, notwithstanding the correction of the deficiency
774 giving rise to the violation.

775 (2) Class "II" violations are defined in s. 408.813. The
776 agency shall impose an administrative fine of \$1,000 for an
777 isolated violation, \$2,500 for a patterned violation, or \$5,000
778 for a widespread violation. A fine must be levied
779 notwithstanding the correction of the deficiency giving rise to
780 the violation.

781 (3) Class "III" violations are defined in s. 408.813. The
782 agency shall impose an administrative fine of \$500 for an
783 isolated violation, \$750 for a patterned violation, or \$1,000
784 for a widespread violation. If a deficiency giving rise to a
785 class III violation is corrected within the time specified by
786 the agency, the fine may not be imposed.

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787 (4) Class "IV" violations are defined in s. 408.813. The
788 agency shall impose for a cited class IV violation an
789 administrative fine of at least \$100 but not exceeding \$200 for
790 each violation. If a deficiency giving rise to a class IV
791 violation is corrected within the time specified by the agency,
792 the fine may not be imposed.

793 400.9984 Receivership proceedings.—The agency may apply s.
794 429.22 with regard to receivership proceedings for transitional
795 living facilities.

796 400.9985 Interagency communication.—The agency, the
797 department, the Agency for Persons with Disabilities, and the
798 Department of Children and Families shall develop electronic
799 systems to ensure that relevant information pertaining to the
800 regulation of transitional living facilities and clients is
801 timely and effectively communicated among agencies in order to
802 facilitate the protection of clients. Electronic sharing of
803 information shall include, at a minimum, a brain and spinal cord
804 injury registry and a client abuse registry.

805 Section 2. Section 400.805, Florida Statutes, is
806 transferred and renumbered as s. 400.9986, Florida Statutes.

807 Section 3. Effective July 1, 2016, s. 400.9986, Florida
808 Statutes, is repealed.

809 Section 4. The title of part V of chapter 400, Florida
810 Statutes, consisting of sections 400.701 and 400.801, is
811 redesignated as "INTERMEDIATE CARE FACILITIES."

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812 Section 5. Subsection (9) of section 381.745, Florida
813 Statutes, is amended to read:

814 381.745 Definitions; ss. 381.739-381.79.—As used in ss.
815 381.739-381.79, the term:

816 (9) "Transitional living facility" means a state-approved
817 facility, as defined and licensed under chapter 400 ~~or chapter~~
818 ~~429, or a facility approved by the brain and spinal cord injury~~
819 ~~program in accordance with this chapter.~~

820 Section 6. Section 381.75, Florida Statutes, is amended to
821 read:

822 381.75 Duties and responsibilities of the department, ~~of~~
823 ~~transitional living facilities, and of residents.~~—Consistent
824 with the mandate of s. 381.7395, the department shall develop
825 and administer a multilevel treatment program for individuals
826 who sustain brain or spinal cord injuries and who are referred
827 to the brain and spinal cord injury program.

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

833 (2) The department shall refer individuals who have brain
834 or spinal cord injuries to other state agencies to ensure ~~assure~~
835 that rehabilitative services, if desired, are obtained by that
836 individual.

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837 (3) The department, in consultation with emergency medical
838 service, shall develop standards for an emergency medical
839 evacuation system that will ensure that all individuals who
840 sustain traumatic brain or spinal cord injuries are transported
841 to a department-approved trauma center that meets the standards
842 and criteria established by the emergency medical service and
843 the acute-care standards of the brain and spinal cord injury
844 program.

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

848 (5) The department shall determine the appropriate number
849 of designated acute-care facilities, inpatient rehabilitation
850 centers, and outpatient rehabilitation centers, needed based on
851 incidence, volume of admissions, and other appropriate criteria.

852 (6) The department shall develop standards for designation
853 of transitional living facilities to provide transitional living
854 services for individuals who participate in the brain and spinal
855 cord injury program ~~the opportunity to adjust to their~~
856 ~~disabilities and to develop physical and functional skills in a~~
857 ~~supported living environment.~~

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

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

868 ~~(c) A transitional living facility for an individual who~~
869 ~~has a brain or spinal cord injury shall provide to such~~
870 ~~individual, in a residential setting, a goal-oriented treatment~~
871 ~~program designed to improve the individual's physical,~~
872 ~~cognitive, communicative, behavioral, psychological, and social~~
873 ~~functioning, as well as to provide necessary support and~~
874 ~~supervision. A transitional living facility shall offer at least~~
875 ~~the following therapies: physical, occupational, speech,~~
876 ~~neuropsychology, independent living skills training, behavior~~
877 ~~analysis for programs serving brain-injured individuals, health~~
878 ~~education, and recreation.~~

879 ~~(d) All residents shall use the transitional living~~
880 ~~facility as a temporary measure and not as a permanent home or~~
881 ~~domicile. The transitional living facility shall develop an~~
882 ~~initial treatment plan for each resident within 3 days after the~~
883 ~~resident's admission. The transitional living facility shall~~
884 ~~develop a comprehensive plan of treatment and a discharge plan~~
885 ~~for each resident as soon as practical, but no later than 30~~
886 ~~days after the resident's admission. Each comprehensive~~
887 ~~treatment plan and discharge plan must be reviewed and updated~~

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888 ~~as necessary, but no less often than quarterly. This subsection~~
889 ~~does not require the discharge of an individual who continues to~~
890 ~~require any of the specialized services described in paragraph~~
891 ~~(c) or who is making measurable progress in accordance with that~~
892 ~~individual's comprehensive treatment plan. The transitional~~
893 ~~living facility shall discharge any individual who has an~~
894 ~~appropriate discharge site and who has achieved the goals of his~~
895 ~~or her discharge plan or who is no longer making progress toward~~
896 ~~the goals established in the comprehensive treatment plan and~~
897 ~~the discharge plan. The discharge location must be the least~~
898 ~~restrictive environment in which an individual's health, well-~~
899 ~~being, and safety is preserved.~~

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

903 Section 7. Subsection (4) of section 381.78, Florida
904 Statutes, is amended to read:

905 381.78 Advisory council on brain and spinal cord
906 injuries.-

907 (4) The council shall+

908 (a) provide advice and expertise to the department in the
909 preparation, implementation, and periodic review of the brain
910 and spinal cord injury program.

911 (b) ~~Annually appoint a five member committee composed of~~
912 ~~one individual who has a brain injury or has a family member~~
913 ~~with a brain injury, one individual who has a spinal cord injury~~

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914 ~~or has a family member with a spinal cord injury, and three~~
915 ~~members who shall be chosen from among these representative~~
916 ~~groups: physicians, other allied health professionals,~~
917 ~~administrators of brain and spinal cord injury programs, and~~
918 ~~representatives from support groups with expertise in areas~~
919 ~~related to the rehabilitation of individuals who have brain or~~
920 ~~spinal cord injuries, except that one and only one member of the~~
921 ~~committee shall be an administrator of a transitional living~~
922 ~~facility. Membership on the council is not a prerequisite for~~
923 ~~membership on this committee.~~

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

930 ~~2. Factual findings of the committee resulting from an~~
931 ~~onsite investigation of a facility pursuant to subparagraph 1.~~
932 ~~shall be adopted by the agency in developing its administrative~~
933 ~~response regarding enforcement of statutes and rules regulating~~
934 ~~the operation of the facility.~~

935 ~~3. Onsite investigations by the committee shall be funded~~
936 ~~by the Health Care Trust Fund.~~

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

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

943 Section 8. Subsection (5) of section 400.93, Florida
944 Statutes, is amended to read:

945 400.93 Licensure required; exemptions; unlawful acts;
946 penalties.—

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

953 (a) Providers operated by the Department of Health or
954 Federal Government.

955 (b) Nursing homes licensed under part II.

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

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

959 (e) Hospices licensed under part IV.

960 (f) Intermediate care facilities and, homes for special
961 services, ~~and transitional living facilities~~ licensed under part
962 V.

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

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964 ~~(g)~~ (h) Hospitals and ambulatory surgical centers licensed
965 under chapter 395.

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

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

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

972 Section 9. Subsection (21) of section 408.802, Florida
973 Statutes, is amended to read:

974 408.802 Applicability.—The provisions of this part apply
975 to the provision of services that require licensure as defined
976 in this part and to the following entities licensed, registered,
977 or certified by the agency, as described in chapters 112, 383,
978 390, 394, 395, 400, 429, 440, 483, and 765:

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

981 Section 10. Subsection (20) of section 408.820, Florida
982 Statutes, is amended to read:

983 408.820 Exemptions.—Except as prescribed in authorizing
984 statutes, the following exemptions shall apply to specified
985 requirements of this part:

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

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988 Section 11. Subsection (1) of s. 381.79 is reenacted for
989 the purpose of incorporating the amendment made by this act to
990 s. 381.75, Florida Statutes, in a reference thereto.

991 Section 12. (1) A transitional living facility that is
992 licensed under s. 400.805, Florida Statutes, on June 30, 2015,
993 must be licensed under and in compliance with s. 400.9986,
994 Florida Statutes, until the licensee becomes licensed under and
995 in compliance with part XI of ch. 400, Florida Statutes, as
996 created by this act. Such licensees must be licensed under and
997 in compliance with part XI of chapter 400, Florida Statutes, as
998 created by this act, on or before July 1, 2016.

999 (2) A transitional living facility that is licensed on or
1000 after July 1, 2015, must be licensed under and in compliance
1001 with part XI of ch. 400, Florida Statutes, as created by this
1002 act.

1003 Section 13. Except as otherwise expressly provided in this
1004 act, this act shall take effect July 1, 2015.

1005

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

1009

Remove everything before the enacting clause and insert:

1010

An act relating to transitional living facilities; creating part

1011

XI of ch. 400, F.S.; creating s. 400.997, F.S.; providing

1012

legislative intent; creating s. 400.9971, F.S.; providing

1013

definitions; creating s. 400.9972, F.S.; requiring the licensure

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1014 of transitional living facilities; providing license fees and
1015 application requirements; requiring accreditation of licensed
1016 facilities; creating s. 400.9973, F.S.; providing requirements
1017 for transitional living facility policies and procedures
1018 governing client admission, transfer, and discharge; creating s.
1019 400.9974, F.S.; requiring a comprehensive treatment plan to be
1020 developed for each client; providing plan and staffing
1021 requirements; requiring certain consent for continued treatment
1022 in a transitional living facility; creating s. 400.9975, F.S.;
1023 providing licensee responsibilities with respect to each client
1024 and specified others and requiring written notice of such
1025 responsibilities to be provided; prohibiting a licensee or
1026 employee of a facility from serving notice upon a client to
1027 leave the premises or taking other retaliatory action under
1028 certain circumstances; requiring the client and client's
1029 representative to be provided with certain information;
1030 requiring the licensee to develop and implement certain policies
1031 and procedures governing the release of client information;
1032 creating s. 400.9976, F.S.; providing licensee requirements
1033 relating to administration of medication; requiring maintenance
1034 of medication administration records; providing requirements for
1035 the self-administration of medication by clients; creating s.
1036 400.9977, F.S.; providing training and supervision requirements
1037 for the administration of medications by unlicensed staff;
1038 specifying who may conduct the training; requiring licensees to
1039 adopt certain policies and procedures and maintain specified

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1040 records with respect to the administration of medications by
1041 unlicensed staff; requiring the Agency for Health Care
1042 Administration to adopt rules; creating s. 400.9978, F.S.;
1043 providing requirements for the screening of potential employees
1044 and training and monitoring of employees for the protection of
1045 clients; requiring licensees to implement certain policies and
1046 procedures to protect clients; providing conditions for
1047 investigating and reporting incidents of abuse, neglect,
1048 mistreatment, or exploitation of clients; creating s. 400.9979,
1049 F.S.; providing requirements and limitations for the use of
1050 physical restraints, seclusion, and chemical restraint
1051 medication on clients; providing a limitation on the duration of
1052 an emergency treatment order; requiring notification of certain
1053 persons when restraint or seclusion is imposed; authorizing the
1054 agency to adopt rules; creating s. 400.998, F.S.; providing
1055 background screening requirements for licensee personnel;
1056 requiring the licensee to maintain certain personnel records;
1057 providing administrative responsibilities for licensees;
1058 providing recordkeeping requirements; creating s. 400.9981,
1059 F.S.; providing licensee responsibilities with respect to the
1060 property and personal affairs of clients; providing requirements
1061 for a licensee with respect to obtaining surety bonds; providing
1062 recordkeeping requirements relating to the safekeeping of
1063 personal effects; providing requirements for trust funds or
1064 other property received by a licensee and credited to the
1065 client; providing a penalty for certain misuse of a client's

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1066 personal funds, property, or personal needs allowance; providing
1067 criminal penalties for violations; providing for the disposition
1068 of property in the event of the death of a client; authorizing
1069 the agency to adopt rules; creating s. 400.9982, F.S.; providing
1070 legislative intent; authorizing the agency to adopt and enforce
1071 rules establishing specified standards for transitional living
1072 facilities and personnel thereof; creating s. 400.9983, F.S.;
1073 classifying certain violations and providing penalties therefor;
1074 providing administrative fines for specified classes of
1075 violations; creating s. 400.9984, F.S.; authorizing the agency
1076 to apply certain provisions with regard to receivership
1077 proceedings; creating s. 400.9985, F.S.; requiring the agency,
1078 the Department of Health, the Agency for Persons with
1079 Disabilities, and the Department of Children and Families to
1080 develop electronic information systems for certain purposes;
1081 transferring and renumbering s. 400.805, F.S., as s. 400.9986,
1082 F.S.; repealing s. 400.9986, F.S., relating to transitional
1083 living facilities, on a specified date; revising the title of
1084 part V of ch. 400, F.S.; amending s. 381.745, F.S.; revising the
1085 definition of the term "transitional living facility," to
1086 conform to changes made by the act; amending s. 381.75, F.S.;
1087 revising the duties of the Department of Health and the agency
1088 relating to transitional living facilities; amending ss. 381.78,
1089 400.93, 408.802, and 408.820, F.S.; conforming provisions to
1090 changes made by the act; reenacting s. 381.79(1), F.S., to
1091 incorporate the amendment made by this act to s. 381.75, F.S.,

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1092 in a reference thereto; providing for the act's applicability to
1093 licensed transitional living facilities licensed on specified
1094 dates; providing effective dates.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 161 Responsibilities of Health Care Facilities
SPONSOR(S): Burton
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		Guzzo <i>LG</i>	Poche <i>MMW</i>
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill requires hospitals to notify obstetrical physicians at least 120 days before closing an obstetrical department or ceasing to provide obstetrical services. The bill also repeals s. 383.336, F.S., which requires the state Surgeon General to establish practice parameters for a physician performing cesarean section procedures at a provider hospital, defined as a hospital where at least 30 cesarean section procedures are performed and paid for, at least in part, by state funds or federal funds distributed by the state. Each provider hospital is also required to establish a peer review board to examine these cesarean section procedures. These provisions are no longer implemented by the Department of Health.

The bill does not appear to have a fiscal impact.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Obstetrical Services

Licensure Requirements

A hospital is required to report the emergency services it will provide on its license application form to the Agency for Health Care Administration (AHCA).¹ Obstetrics is included as one of the reportable emergency services. These services are then listed on the hospital's license,² which must be conspicuously displayed in the facility.³ The list of services is also used for the inventory of hospital emergency services maintained by AHCA.⁴

Hospitals and other facilities regulated by AHCA are required to submit a request to amend a license 60 to 120 days in advance of the requested effective date. However, the deadline does not apply to a request to amend hospital emergency services.⁵

There are currently 140 hospitals in Florida that are licensed to offer emergency obstetrical services.⁶

Cesarean Births at Provider Hospitals

A cesarean section is a surgical procedure performed when a mother is not able to safely deliver a fetus vaginally. Instead, the fetus is delivered through an incision in the mother's abdomen and uterus.

Section 383.336(2), F.S., requires the Department of Health (DOH) to adopt rules to implement practice parameters for a physician performing a caesarean section delivery in a provider hospital. A provider hospital has at least 30 births per year that are paid, in part or in full, by state funds or federal funds administered by the state.

Section 383.336(3), F.S., requires a provider hospital to establish a peer review board consisting of obstetric physicians and other credentialed individuals performing cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were paid, in part or in full, by state funds or federal funds administered by the state. Further, the board is required to conduct its review pursuant to the parameters specified in rules adopted by DOH.

In 1992, the former Department of Health and Rehabilitative Services (HRS) adopted rules to implement the provisions of s. 383.336, F.S.⁷ In 1996, responsibility for all public health matters was moved from HRS to DOH⁸; however, the rules adopted by HRS were never amended or readopted. In

¹ Agency for Health Care Administration, *Health Care Licensing Application: Hospitals*, at 12, available at http://ahca.myflorida.com/mchq/Health_Facility_Regulation/Hospital_Outpatient/Hospitals/SupportingForms.shtml#licap (last visited January 30, 2015).

² Section 408.806(4)(b), F.S.

³ Section 408.804(2), F.S.

⁴ Section 395.1041(2), F.S.

⁵ Rule 59A-35.040(2)(c), F.A.C.

⁶ Agency for Health Care Administration, *Facility/Provider Locator*, available at

http://www.floridahealthfinder.gov/facilitylocator/Facility_Search.aspx (report generated January 30, 2015).

⁷ Chapter 10D-116, F.A.C.

⁸ Ch. 96-403, s. 6, Laws of Fla.

2012, the Legislature directed DOH to initiate rulemaking to readopt or amend the rules by July 1, 2013 to avoid nullification of the rules.⁹ Instead, the rules were repealed on July 1, 2013.

Effect of Proposed Changes

The bill amends s. 395.1051, F.S., to require hospitals to notify obstetrical physicians at least 120 days before closing an obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which requires DOH to establish practice parameters for physicians performing cesarean section procedures in provider hospitals and requires each provider hospital to create a peer review board to examine such procedures. The provisions of this section are not being implemented and the rules adopted under the authority provided in this section were repealed in 2013.

B. SECTION DIRECTORY:

Section 1: Repeals s. 383.336, F.S., relating to provider hospitals; practice parameters; peer review board.

Section 2: Amends s. 395.1051, F.S., relating to duty to notify patients.

Section 3: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE MAKING AUTHORITY:

Rulemaking authority is sufficient to implement the provision of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to responsibilities of health care
 3 facilities; repealing s. 383.336, F.S., relating to
 4 practice parameters for physicians performing
 5 caesarean section deliveries in provider hospitals;
 6 amending s. 395.1051, F.S.; requiring a hospital to
 7 notify obstetrical physicians before the hospital
 8 closes its obstetrical department or ceases to provide
 9 obstetrical services; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 383.336, Florida Statutes, is repealed.

14 Section 2. Section 395.1051, Florida Statutes, is amended
 15 to read:

16 395.1051 Duty to notify patients and physicians.-

17 (1) An appropriately trained person designated by each
 18 licensed facility shall inform each patient, or an individual
 19 identified pursuant to s. 765.401(1), in person about adverse
 20 incidents that result in serious harm to the patient.
 21 Notification of outcomes of care which ~~that~~ result in harm to
 22 the patient under this section does ~~shall~~ not constitute an
 23 acknowledgment or admission of liability and may not, ~~nor can it~~
 24 be introduced as evidence.

25 (2) A hospital shall notify each obstetrical physician who
 26 has privileges at the hospital at least 120 days before the

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27 | hospital closes its obstetrical department or ceases to provide
28 | obstetrical services.

29 | Section 3. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 411 Vaccination of Nursing Home Residents
SPONSOR(S): Miller
TIED BILLS: IDEN./SIM. **BILLS:** SB 332

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		Castagna <i>NC</i>	Poche <i>(MW)</i>
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Pneumococcal disease is an illness caused by the pneumococcus bacteria that can lead to serious infections such as pneumonia, bacteremia, or meningitis. Infections caused by pneumococcal disease are more likely to occur in older adults and persons with decreased immune function. The Centers for Disease Control and Prevention (CDC) recommends two pneumococcal vaccines for adults aged 65 years or older: the pneumococcal polysaccharide vaccine and the pneumococcal conjugate vaccine.

In Florida, nursing homes require newly admitted residents to be assessed and, if eligible, vaccinated for pneumococcal disease with the pneumococcal polysaccharide vaccination.

House Bill 411 requires nursing homes to vaccinate or revaccinate, when indicated, eligible newly admitted residents with any pneumococcal vaccination that is recommended by the CDC.

The bill appears to have no fiscal impact on state or local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Pneumococcal Disease

Pneumococcal disease is an illness caused by pneumococcus bacteria.¹ The disease is often mild but can cause serious symptoms, lifelong disability, or death. Infections caused by pneumococcal disease are more likely to occur in older adults and persons with decreased immune function.² Pneumococcus can cause:

- Pneumonia, which causes inflammation in the lungs.³ Pneumococcal pneumonia is the most common infection caused by pneumococcal disease, and results in 175,000 hospitalizations each year.⁴
- Bacteremia, which causes bacteria to enter the bloodstream.⁵ Bacteremia occurs in about 25 to 30 percent of patients with pneumococcal pneumonia. More than 50,000 cases of pneumococcal bacteremia occur each year.⁶
- Meningitis, which causes inflammation of the membranes surrounding the brain and spinal cord.⁷ An estimated 3,000 to 6,000 cases of pneumococcal meningitis occur each year. The case-fatality rate of pneumococcal meningitis is about 30 percent, but may be as high as 80 percent among elderly persons.⁸

Annually, pneumococcal disease results in approximately 18,000 deaths of adults 65 years or older.⁹

Pneumococcal Immunizations for Older Adults

There are two vaccines against pneumococcal disease, the pneumococcal polysaccharide vaccine (PPV) and the pneumococcal conjugate vaccine (PCV13). The Centers for Disease Control and Prevention (CDC) recently recommended that all adults aged 65 years and older receive both immunizations. The PCV13 protects against 13 of the approximate 90 types of pneumococcal bacteria that can cause disease and related infections. The PPV, referred to as the PPSV23 by the CDC,

¹ Centers for Disease Control and Prevention, *Pneumococcal Disease and the Vaccine (Shot) to Prevent It*, available at <http://www.cdc.gov/vaccines/vpd-vac/pneumo/fs-parents.html> (last visited February 3, 2015).

² Centers for Disease Control and Prevention. *Pneumococcal Disease; Epidemiology and Prevention of Vaccine-Preventable Diseases; The Pink Book: Course Textbook - 12th Edition Second Printing (May 2012)* available at <http://www.cdc.gov/vaccines/pubs/pinkbook/pneumo.html> (last visited February 2, 2015).

³ Mayo Clinic, *Pneumonia*, (May 21, 2013), available at <http://www.mayoclinic.org/diseases-conditions/pneumonia/basics/definition/con-20020032> (last visited February 2, 2015).

⁴ Supra at FN 1.

⁵ Supra at FN 3.

⁶ National Institute of Allergy and Infectious Diseases, *Pneumococcal Pneumonia* (September 2011), available at <http://www.niaid.nih.gov/topics/pneumonia/Pages/Default.aspx> (last visited February 2, 2015).

⁷ Mayo Clinic, *Meningitis*, (May 19, 2013) available at: <http://www.mayoclinic.org/diseases-conditions/meningitis/basics/definition/con-20019713> (last visited February 2, 2015).

⁸ National Foundation for Infectious Diseases, *Pneumococcal Disease Fact Sheet for the Media* available at <http://www.nfid.org/idinfo/pneumococcal/media-factsheet.html> (last visited February 2, 2015).

⁹ Centers for Disease Control and Prevention, *Pneumococcal Vaccines* (February 2015), available at: <http://www.cdc.gov/vaccines/hcp/patient-ed/adults/for-practice/standards/recommend.html> (last visited February 3, 2015).

protects against 23 types of pneumococcal bacteria and prevents against more severe invasive infections, such as meningitis, but only offers low levels of protection against pneumonia.¹⁰

According to the CDC, adults who are 65 years of age or older and who have not previously received the PCV13 should receive a dose of the PCV13, followed 6 to 12 months later by a dose of the PPV. If an older adult has already received one or more doses of the PPV, the dose of the PCV13 should be given at least 1 year after the most recent dose of the PPV.¹¹

Immunization in Florida Nursing Home Facilities

Section 400.141(1)(t), F.S., requires licensed nursing home facilities to assess new residents within 5 days of admission for eligibility for the PPV. Eligible residents must be vaccinated or revaccinated with the PPV within 60 days, in accordance with CDC immunization recommendations.¹² Residents may elect to receive the PPV immunization from a personal physician and must submit proof of this immunization to the facility. Current law provides exemptions from the PPV requirement for medical contraindications and religious or personal beliefs.¹³

Effect of Proposed Changes

House Bill 411 amends s. 400.141(1)(t), F.S., to remove the specific reference to pneumococcal polysaccharide vaccine and permits eligible nursing home residents to receive any CDC-recommended pneumococcal vaccine to satisfy the vaccination and revaccination requirement in statute.

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

B. SECTION DIRECTORY:

Section 1. Amends s.400.141, F.S., relating to administration and management of nursing home facilities.

Section 2. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹⁰ Supra at FN 2.

¹¹ Centers for Disease Control and Prevention, *Pneumococcal Vaccination: Who Needs It?*, available at <http://www.cdc.gov/vaccines/vpd-vac/pneumo/vacc-in-short.htm> (last visited February 3, 2015).

¹² Section 400.141(1)(t), F.S.

¹³ Id.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Vaccinating nursing home residents with both pneumococcal vaccines could result in lower health care costs through prevention of pneumococcal pneumonia and other diseases.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to vaccination of nursing home
 3 residents; amending s. 400.141, F.S.; revising
 4 provisions relating to the type of pneumococcal
 5 vaccine administered to nursing home residents;
 6 deleting obsolete language; providing an effective
 7 date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraph (t) of subsection (1) of section
 12 400.141, Florida Statutes, is amended to read:

13 400.141 Administration and management of nursing home
 14 facilities.—

15 (1) Every licensed facility shall comply with all
 16 applicable standards and rules of the agency and shall:

17 (t) Assess all residents within 5 working days after
 18 admission for eligibility for pneumococcal ~~polysaccharide~~
 19 vaccination or revaccination ~~(PPV)~~ and vaccinate residents when
 20 indicated within 60 days ~~after the effective date of this act~~ in
 21 accordance with the recommendations of the United States Centers
 22 for Disease Control and Prevention, subject to exemptions for
 23 medical contraindications and religious or personal beliefs.
 24 ~~Residents admitted after the effective date of this act shall be~~
 25 ~~assessed within 5 working days of admission and, when indicated,~~
 26 ~~vaccinated within 60 days in accordance with the recommendations~~

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27 | ~~of the United States Centers for Disease Control and Prevention,~~
28 | ~~subject to exemptions for medical contraindications and~~
29 | ~~religious or personal beliefs.~~ Immunization shall not be
30 | provided to any resident who provides documentation that he or
31 | she has been immunized as required by this paragraph. This
32 | paragraph does not prohibit a resident from receiving the
33 | immunization from his or her personal physician if he or she so
34 | chooses. A resident who chooses to receive the immunization from
35 | his or her personal physician shall provide proof of
36 | immunization to the facility. The agency may adopt and enforce
37 | any rules necessary to comply with or implement this paragraph.

38 | Section 2. This act shall take effect July 1, 2015.