

1 A bill to be entitled
2 An act relating to transitional living facilities;
3 creating part XI of ch. 400, F.S., relating to
4 transitional living facilities; creating s. 400.9970,
5 F.S.; providing legislative intent; creating s.
6 400.9971, F.S.; providing definitions; creating s.
7 400.9972, F.S.; requiring the licensure of
8 transitional living facilities; providing fees;
9 providing license application requirements; creating
10 s. 400.9973, F.S.; providing requirements for
11 transitional living facilities relating to client
12 admission, transfer, discharge, and length of
13 residency; creating s. 400.9974, F.S.; requiring a
14 comprehensive treatment plan to be developed for each
15 client; providing plan requirements; creating s.
16 400.9975, F.S.; providing licensee responsibilities;
17 providing notice requirements; prohibiting a licensee
18 or employee of a facility from serving notice upon a
19 client to leave the premises or take other retaliatory
20 action; requiring the client and client's
21 representative to be provided with certain
22 information; requiring the licensee to develop and
23 implement certain policies and procedures; creating s.
24 400.9976, F.S.; providing licensee requirements
25 relating to medication practices; creating s.
26 400.9977, F.S.; providing requirements for the
27 screening of potential employees and monitoring of
28 employees for the protection of clients; requiring

29 | licensees to implement certain procedures; creating s.
30 | 400.9978, F.S.; providing requirements for the use of
31 | physical restraints, seclusion, and chemical restraint
32 | medication on clients; creating s. 400.9979, F.S.;
33 | providing background screening requirements; requiring
34 | the licensee to maintain certain personnel records;
35 | providing administrative responsibilities for
36 | licensees; providing recordkeeping requirements;
37 | creating s. 400.9980, F.S.; providing requirements
38 | relating to property and personal affairs of clients;
39 | providing requirements for a licensee with respect to
40 | obtaining surety bonds; providing recordkeeping
41 | requirements relating to the safekeeping of personal
42 | effects; providing requirements for trust funds
43 | received by licensee and credited to the client;
44 | providing a penalty for certain misuse of a resident's
45 | personal needs allowance; providing criminal penalties
46 | for violations; providing for the disposition of
47 | property in the event of the death of a client;
48 | authorizing the Agency for Health Care Administration
49 | to adopt rules; creating s. 400.9981, F.S.; requiring
50 | the agency, in consultation with the Department of
51 | Health, to adopt and enforce certain rules; creating
52 | s. 400.9982, F.S.; providing procedures relating to
53 | violations and penalties; providing administrative
54 | fines for specified classes of violations; creating s.
55 | 400.9983, F.S.; authorizing the agency to apply
56 | certain provisions with regard to receivership

57 | proceedings; creating s. 400.9984, F.S.; requiring the
 58 | Agency for Health Care Administration, the Department
 59 | of Health, the Agency for Persons with Disabilities,
 60 | and the Department of Children and Families to develop
 61 | electronic systems for certain purposes; amending s.
 62 | 381.745, F.S.; revising the definition of the term
 63 | "transitional living facility"; amending s. 381.75,
 64 | F.S.; revising responsibilities of the Department of
 65 | Health with respect to residents of transitional
 66 | living facilities; amending s. 381.78, F.S.; revising
 67 | the duties of the advisory council on brain and spinal
 68 | cord injuries; amending ss. 408.802 and 408.820, F.S.;
 69 | conforming provisions to changes made by the act;
 70 | amending s. 400.93, F.S.; providing an exemption from
 71 | home medical equipment licensure for transitional
 72 | living facilities under certain conditions; repealing
 73 | s. 400.805, F.S., relating to transitional living
 74 | facilities; providing for continuation of licensure of
 75 | certain transitional living facilities under the act;
 76 | providing an effective date.

77 |
 78 | Be It Enacted by the Legislature of the State of Florida:

79 |
 80 | Section 1. Part XI of chapter 400, Florida Statutes,
 81 | consisting of sections 400.9970 through 400.9984, is created to
 82 | read:

83 | PART XI

84 | TRANSITIONAL LIVING FACILITIES

85 400.9970 Legislative intent.—It is the intent of the
86 Legislature to provide for the licensure of transitional living
87 facilities and require the development, establishment, and
88 enforcement of basic standards by the agency to ensure quality
89 of care and services to clients in transitional living
90 facilities. It is the policy of the state that the least
91 restrictive appropriate available treatment be used based on the
92 individual needs and best interests of the client and consistent
93 with optimum improvement of the client's condition. The goal of
94 a transitional living program for individuals who have brain or
95 spinal cord injuries is to assist each individual who has such
96 an injury to achieve a higher level of independent functioning
97 and to enable that individual to reenter the community. It is
98 also the policy of this state that the use of restraint and
99 seclusion on clients is justified only as an emergency safety
100 measure to be used in response to danger to the client or
101 others. It is, therefore, the further intent of the Legislature
102 to achieve an ongoing reduction in the use of restraint and
103 seclusion in programs and facilities serving persons with brain
104 injury or spinal cord injuries.

105 400.9971 Definitions.—As used in this part, the term:

106 (1) "Agency" means the Agency for Health Care
107 Administration.

108 (2) "Chemical restraint" means a pharmacologic drug that
109 physically limits, restricts, or deprives an individual of
110 movement or mobility, is used for client protection or safety,
111 and is not required for the treatment of medical conditions or
112 symptoms.

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

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

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

129 (6) "Seclusion" means the physical segregation of a person
130 in any fashion or involuntary isolation of a person in a room or
131 area from which the person is prevented from leaving. The
132 prevention may be by physical barrier or by a staff member who
133 is acting in a manner, or who is physically situated, so as to
134 prevent the person from leaving the room or area. For purposes
135 of this part, the term does not mean isolation due to a person's
136 medical condition or symptoms.

137 (7) "Transitional living facility" means a site where
138 specialized health care services are provided, including, but
139 not limited to, rehabilitative services, behavior modification,
140 community reentry training, aids for independent living, and

141 counseling to persons with brain injuries or spinal cord
142 injuries. The term does not require a provider otherwise
143 licensed by the agency to obtain a separate transitional living
144 facility license to serve persons with brain or spinal cord
145 injuries if the services provided are within the scope of the
146 provider's license.

147 400.9972 License required; fee; application.-

148 (1) The requirements of part II of chapter 408 apply to
149 the provision of services that require licensure pursuant to
150 this part and part II of chapter 408 and to entities licensed by
151 or applying for such licensure from the agency pursuant to this
152 part. A license issued by the agency is required for the
153 operation of a transitional living facility in this state.

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

159 (3) Each applicant for licensure must provide:

160 (a) The location of the facility for which a license is
161 sought and documentation, signed by the appropriate local
162 government official, that states that the applicant has met
163 local zoning requirements.

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

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

168 (d) Proof that the facility has received a satisfactory

169 firesafety inspection.

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

172 (f) The facility must attain and continuously maintain
173 accreditation by an accrediting organization specializing in
174 evaluating rehabilitation facilities whose standards incorporate
175 comparable licensure regulations required by the state. An
176 applicant for licensure as a transitional living facility must
177 obtain accreditation within 12 months after the issuance of an
178 initial license. The agency shall accept the accreditation
179 survey report of the accrediting organization in lieu of
180 conducting a licensure inspection, provided that the agency
181 determines that the standards included in the survey report
182 document that the facility is in substantial compliance with
183 state licensure requirements. The facility must submit to the
184 agency, within 10 days after receipt of the survey report, a
185 copy of all accreditation survey reports and evidence of the
186 accreditation decision after the accrediting organization
187 completes the survey evaluating the facility. The agency may
188 conduct periodic inspections of transitional living facilities
189 to ensure compliance with licensure requirements, to validate
190 the inspection process of accrediting organizations, to respond
191 to licensure complaints, or to protect the public health and
192 safety.

193 400.9973 Client admission, transfer, and discharge.-

194 (1) Each transitional living facility must have written
195 policies and procedures governing the admission, transfer, and
196 discharge of clients.

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

200 (3) A client admitted to a transitional living facility
201 must have a brain or spinal cord injury, such as a lesion to the
202 spinal cord or cauda equina syndrome, with evidence of
203 significant involvement of two of the following deficits or
204 dysfunctions:

205 (a) A motor deficit.

206 (b) A sensory deficit.

207 (c) Bowel and bladder dysfunction.

208 (d) An acquired internal or external injury to the skull,
209 the brain, or the brain's covering, whether caused by a
210 traumatic or nontraumatic event, that produces an altered state
211 of consciousness or an anatomic motor, sensory, cognitive, or
212 behavioral deficit.

213 (4) A client whose medical condition and diagnosis do not
214 positively identify a cause of the client's condition, whose
215 symptoms are inconsistent with the known cause of injury, or
216 whose recovery is inconsistent with the known medical condition
217 may be admitted to a transitional living facility for evaluation
218 for a period not to exceed 90 days.

219 (5) A client admitted to a transitional living facility
220 must be admitted upon prescription by a licensed physician and
221 must remain under the care of a licensed physician for the
222 duration of the client's stay in the facility.

223 (6) A transitional living facility may not admit a client
224 whose primary admitting diagnosis is mental illness or an

225 | intellectual or developmental disability.

226 | (7) An individual may not be admitted to a transitional

227 | living facility if the individual:

228 | (a) Presents significant risk of infection to other

229 | clients or personnel. A health care practitioner must provide

230 | documentation that the individual is free of apparent signs and

231 | symptoms of communicable disease;

232 | (b) Is a danger to self or others as determined by a

233 | physician or mental health practitioner licensed under chapter

234 | 490 or chapter 491, unless the facility provides adequate

235 | staffing and support to ensure patient safety;

236 | (c) Is bedridden; or

237 | (d) Requires 24-hour nursing supervision.

238 | (8) If the client meets the admission criteria, the

239 | medical or nursing director of the facility must complete an

240 | initial evaluation of the client's functional skills, behavioral

241 | status, cognitive status, educational or vocational potential,

242 | medical status, psychosocial status, sensorimotor capacity, and

243 | other related skills and abilities within the first 72 hours

244 | after the client's admission to the facility. An initial

245 | comprehensive treatment plan that delineates services to be

246 | provided and appropriate sources for such services must be

247 | implemented within the first 4 days after admission.

248 | (9) Each transitional living facility shall develop a

249 | discharge plan for each client before or upon admission to the

250 | facility. The discharge plan must identify the intended

251 | discharge site and possible alternative discharge sites. For

252 | each discharge site identified, the discharge plan must identify

253 the skills, behaviors, and other conditions that the client must
254 achieve to be appropriate for discharge. Discharge plans must be
255 reviewed and updated as necessary, but no less often than once
256 monthly.

257 (10) As soon as practicable, a transitional living
258 facility shall discharge a client when he or she no longer
259 requires any of the specialized services described in s.
260 400.9971(7) or is not making measurable progress in accordance
261 with his or her comprehensive treatment plan, or if the
262 transitional living facility is no longer the most appropriate,
263 least restrictive treatment option.

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

269 400.9974 Client comprehensive treatment plans; client
270 services.—

271 (1) Each transitional living facility shall develop a
272 comprehensive treatment plan for each client as soon as
273 possible, but no later than 30 days following development of the
274 initial comprehensive treatment plan. Comprehensive treatment
275 plans must be reviewed and updated if the client fails to meet
276 projected improvements in the plan or if a significant change in
277 the client's condition occurs. Treatment plans must be reviewed
278 and updated no less often than once monthly. Comprehensive
279 treatment plans must be developed by an interdisciplinary team
280 consisting of the case manager, the program director, the nurse,

281 and appropriate therapists. The client or, if appropriate, the
282 client's representative must be included in developing the
283 comprehensive treatment plan.

284 (2) The comprehensive treatment plan must include:

285 (a) The physician's orders and the client's diagnosis,
286 medical history, physical examination, and rehabilitative or
287 restorative needs.

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

290 (c) A comprehensive, accurate, reproducible, and
291 standardized assessment of the client's functional capability;
292 the treatments designed to achieve skills, behaviors, and other
293 conditions necessary to return to the community; and specific
294 measurable goals.

295 (d) Steps necessary for the client to achieve transition
296 to the community and estimated length of time to achieve the
297 goals.

298 (3) The client or, if appropriate, the client's
299 representative shall consent to the continued treatment at the
300 transitional living facility. Consent may be for a period of up
301 to 3 months. If such consent is not given, the transitional
302 living facility shall discharge the client as soon as
303 practicable.

304 (4) Each client must receive the professional program
305 services needed to implement the client's comprehensive
306 treatment plan.

307 (5) The licensee must employ available qualified
308 professional staff to carry out and monitor the various

309 professional interventions in accordance with the stated goals
310 and objectives of every client's comprehensive treatment plan.

311 (6) Each client must receive a continuous treatment
312 program that includes appropriate, consistent implementation of
313 a program of specialized and general training, treatment, health
314 services, and related services that is directed toward:

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

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

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

322 400.9975 Licensee responsibilities.-

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

324 (a) Lives in a safe environment free from abuse, neglect,
325 and exploitation.

326 (b) Is treated with consideration and respect and with due
327 recognition of personal dignity, individuality, and the need for
328 privacy.

329 (c) Retains and uses his or her own clothes and other
330 personal property in his or her immediate living quarters, so as
331 to maintain individuality and personal dignity, except when the
332 licensee can demonstrate that such retention and use would be
333 unsafe, impractical, or an infringement upon the rights of other
334 clients.

335 (d) Has unrestricted private communication, including
336 receiving and sending unopened correspondence, access to a

337 telephone, and visiting with any person of his or her choice.
338 Upon request, the licensee shall make provisions to modify
339 visiting hours for caregivers and guests. The facility shall
340 restrict communication in accordance with any court order or
341 written instruction of a client's representative. Any
342 restriction on a client's communication for therapeutic reasons
343 shall be documented and reviewed no less often than weekly and
344 shall be removed as soon as it is no longer clinically
345 indicated. The basis for the restriction shall be explained to
346 the client and, if applicable, the client's representative. The
347 client shall nonetheless retain the right to call the abuse
348 hotline, the agency, and Disability Rights Florida at any and
349 all times.

350 (e) Has an opportunity to participate in and benefit from
351 community services and activities to achieve the highest
352 possible level of independence, autonomy, and interaction within
353 the community.

354 (f) Has an opportunity to manage his or her financial
355 affairs unless the client or, if applicable, the client's
356 representative authorizes the administrator of the facility to
357 provide safekeeping for funds as provided in this part.

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

361 (h) Has an opportunity to exercise civil and religious
362 liberties, including the right to independent personal
363 decisions. No religious belief or practice, including attendance
364 at religious services, shall be imposed upon any client.

365 (i) Has access to adequate and appropriate health care
366 consistent with established and recognized standards within the
367 community.

368 (j) Has the ability to present grievances and recommend
369 changes in policies, procedures, and services to the staff of
370 the licensee, governing officials, or any other person without
371 restraint, interference, coercion, discrimination, or reprisal.
372 Each licensee shall establish a grievance procedure to
373 facilitate a client's ability to present grievances, including a
374 system for investigating, tracking, managing, and responding to
375 complaints by clients receiving services or persons acting on
376 their behalf, and an appeals process. This process must include
377 access to Disability Rights Florida and other advocates and the
378 right to be a member of, be active in, and associate with
379 advocacy or special interest groups.

380 (2) The licensee shall:

381 (a) Promote participation of each client's representative
382 in the process of providing treatment to the client unless the
383 representative's participation is unobtainable or inappropriate.

384 (b) Answer communications from each client's family,
385 guardians, representatives, and friends promptly and
386 appropriately.

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

393 (d) Promote leave from the facility for visits, trips, or
394 vacations.

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

399 (3) The administrator of a facility shall ensure that a
400 written notice of licensee responsibilities is posted in a
401 prominent place in each building where clients reside and read
402 or explained to clients who cannot read. This notice shall
403 include the statewide toll-free telephone number for reporting
404 complaints to the agency, must be provided to clients in a
405 manner that is clearly legible, and must include the words: "To
406 report a complaint regarding the services you receive, please
407 call toll-free ...[telephone number]... or Disability Rights
408 Florida ...[telephone number]..."; and the statewide toll-free
409 telephone number for the central abuse hotline must be provided
410 to clients in a manner that is clearly legible and must include
411 the words: "To report abuse, neglect or exploitation, please
412 call toll-free ...[telephone number where complaints may be
413 lodged]...." The licensee must ensure a client's access to a
414 telephone, when telephone numbers required under this subsection
415 are readily available, to call the agency, the central abuse
416 hotline, or Disability Rights Florida.

417 (4) A licensee or employee of a facility may not serve
418 notice upon a client to leave the premises or take any other
419 retaliatory action against any person solely due to the
420 following:

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

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

425 (5) Before or at the time of admission, the client and the
 426 client's representative shall be provided with a copy of the
 427 licensee's responsibilities as provided in this section,
 428 including grievance procedures and the telephone numbers
 429 provided in subsection (3).

430 (6) The licensee must develop and implement policies and
 431 procedures governing the release of any client information,
 432 including consent necessary from the client or the client's
 433 representative.

434 400.9976 Medication practices.-

435 (1) An individual medication administration record must be
 436 maintained for each client. Each dose of medication, including a
 437 self-administered dose, shall be properly recorded in the
 438 client's record. Each client who self-administers medication
 439 shall be given a pill organizer. Medication must be placed in
 440 the pill organizer by a nurse. A nurse shall document the date
 441 and time medication is placed into each client's pill organizer.
 442 All medications must be administered in compliance with the
 443 physician's orders.

444 (2) If the interdisciplinary team determines that self-
 445 administration of medications is an appropriate objective, and
 446 if the physician does not specify otherwise, a client must be
 447 taught to self-administer his or her medication without a staff
 448 person. This includes all forms of administration, including

449 orally, via injection, and via suppository. The client's
450 physician must be informed of the interdisciplinary team's
451 decision that self-administration of medications is an objective
452 for the client. A client may not self-administer medication
453 until he or she demonstrates the competency to take the correct
454 medication in the correct dosage at the correct time, to respond
455 to missed doses, and to contact an appropriate person with
456 questions.

457 (3) Medication administration discrepancies and adverse
458 drug reactions must be recorded and reported immediately to a
459 physician.

460 400.9977 Protection from abuse, neglect, mistreatment, and
461 exploitation.—The licensee must develop and implement policies
462 and procedures for the screening and training of employees, the
463 protection of clients, and the prevention, identification,
464 investigation, and reporting of abuse, neglect, and
465 exploitation. This includes the licensee's identification of
466 clients whose personal histories render them at risk for abusing
467 other clients, development of intervention strategies to prevent
468 occurrences, monitoring for changes that would trigger abusive
469 behavior, and reassessment of the interventions on a regular
470 basis. A licensee shall implement procedures to:

471 (1) Screen potential employees for a history of abuse,
472 neglect, or mistreatment of clients. The screening shall include
473 an attempt to obtain information from previous employers and
474 current employers and verification with the appropriate
475 licensing boards.

476 (2) Train employees, through orientation and ongoing

477 sessions, on issues related to abuse prohibition practices,
478 including identification of abuse, neglect, mistreatment, and
479 exploitation, appropriate interventions to deal with aggressive
480 or catastrophic reactions of clients, the process to report
481 allegations without fear of reprisal, and recognition of signs
482 of frustration and stress that may lead to abuse.

483 (3) Provide clients, families, and staff with information
484 on how and to whom they may report concerns, incidents, and
485 grievances without the fear of retribution and provide feedback
486 regarding the concerns that have been expressed. A licensee must
487 identify, correct, and intervene in situations in which abuse,
488 neglect, mistreatment, or exploitation is likely to occur,
489 including:

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

493 (b) Providing sufficient staff on each shift to meet the
494 needs of the clients, and ensuring that the staff assigned have
495 knowledge of the individual clients' care needs. The licensee
496 shall identify inappropriate behaviors of its staff, such as
497 using derogatory language, rough handling, ignoring clients
498 while giving care, and directing clients who need toileting
499 assistance to urinate or defecate in their beds.

500 (c) Assessing, planning care for, and monitoring clients
501 with needs and behaviors that might lead to conflict or neglect,
502 such as clients with a history of aggressive behaviors, clients
503 who have behaviors such as entering other clients' rooms,
504 clients with self-injurious behaviors, clients with

505 communication disorders, and clients who require heavy nursing
506 care or are totally dependent on staff.

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

510 (5) Investigate different types of incidents, identify the
511 staff member responsible for the initial reporting, investigate
512 alleged violations, and report results to the proper
513 authorities. The licensee must analyze the occurrences to
514 determine what changes are needed, if any, to policies and
515 procedures to prevent further occurrences and to take all
516 necessary corrective action depending on the results of the
517 investigation.

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

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

524 400.9978 Restraints and seclusion; client safety.—

525 (1) Each facility shall provide a therapeutic setting that
526 supports individual empowerment and responsibility. The health
527 and safety of the person shall be the primary concern at all
528 times.

529 (2) The use of physical restraints must be ordered and
530 documented by a physician and must be consistent with policies
531 and procedures adopted by the facility. The client and, if
532 applicable, the client's representative must be informed of the

533 facility's physical restraint policies and procedures at the
534 time of the client's admission.

535 (3) The use of chemical restraints is limited to
536 prescribed dosages of medications as ordered by a physician and
537 must be consistent with the client's diagnosis and the policies
538 and procedures adopted by the facility. The client and, if
539 applicable, the client's representative must be informed of the
540 facility's chemical restraint policies and procedures at the
541 time of the client's admission.

542 (4) Based on a physician's assessment, when a client
543 exhibits symptoms that present an immediate risk of injury or
544 death to self or others, a physician may issue an emergency
545 treatment order to immediately administer rapid response
546 psychotropic medications or other chemical restraints. Each
547 emergency treatment order must be documented and maintained in
548 the client's record.

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

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

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

558 (a) The continued need for the medication.

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

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

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

565 (7) The licensee may use physical restraint and seclusion
566 only as authorized by the facility's written physical restraint
567 and seclusion policies the provisions of which must be in
568 compliance with this section and applicable rules.

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

573 (9) A facility shall notify the parent or guardian of a
574 client within 24 hours after restraint or seclusion is imposed.
575 Reasonable efforts must be taken to notify the parent or
576 guardian by telephone or e-mail, or both, and these efforts must
577 be documented.

578 (10) The agency may adopt by rule standards and procedures
579 relating to the use of restraint, restraint positioning,
580 seclusion, and emergency treatment orders for psychotropic
581 medications, restraint, and seclusion. Such rules shall include
582 duration of restraint use, staff training, client observation
583 during restraint, and documentation and reporting standards.

584 400.9979 Background screening; administration and
585 management.—

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

589 (2) The licensee shall maintain personnel records for each
590 staff member that contain, at a minimum, documentation of
591 background screening, if applicable, a job description,
592 documentation of compliance with all training requirements of
593 this part or applicable rule, the employment application,
594 references, a copy of all job performance evaluations, and, for
595 each staff member who performs services for which licensure or
596 certification is required, a copy of all licenses or
597 certification held by the staff member.

598 (3) The licensee must:

599 (a) Develop and implement infection control policies and
600 procedures and include such policies and procedures in the
601 licensee's policy manual.

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

603 (c) Designate one person as an administrator who is
604 responsible and accountable for the overall management of the
605 facility.

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

609 (e) Designate in writing a program director who is
610 responsible for supervising the therapeutic and behavioral
611 staff, determining the levels of supervision, and determining
612 room placement for each client.

613 (f) Designate in writing a person to be responsible when
614 the program director is absent from the facility for more than
615 24 hours.

616 (g) Obtain approval of the comprehensive emergency

617 management plan, pursuant to s. 400.9981(2)(e), from the local
618 emergency management agency. Pending the approval of the plan,
619 the local emergency management agency shall ensure that the
620 following agencies, at a minimum, are given the opportunity to
621 review the plan: the Department of Health, the Agency for Health
622 Care Administration, and the Division of Emergency Management.
623 Appropriate volunteer organizations must also be given the
624 opportunity to review the plan. The local emergency management
625 agency shall complete its review within 60 days and either
626 approve the plan or advise the licensee of necessary revisions.

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

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

634 2. A record of all accidents or unusual incidents
635 involving any client or staff member that caused, or had the
636 potential to cause, injury or harm to any person or property
637 within the facility. Such records must contain a clear
638 description of each accident or incident, the names of the
639 persons involved, a description of all medical or other services
640 provided to these persons specifying who provided such services,
641 and the steps taken to prevent recurrence of such accidents or
642 incidents.

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

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

648 400.9980 Property and personal affairs of clients.-

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

654 (2) The admission of a client to a facility and his or her
 655 presence therein shall not confer on a licensee, administrator,
 656 employee, or representative thereof any authority to manage,
 657 use, or dispose of any property of the client, nor shall such
 658 admission or presence confer on any of such persons any
 659 authority or responsibility for the personal affairs of the
 660 client except that which may be necessary for the safe
 661 management of the facility or for the safety of the client.

662 (3) A licensee, administrator, employee, or representative
 663 thereof may:

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

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

672 (c) Act as the power of attorney for a client if the

673 licensee has filed a surety bond with the agency in an amount
674 equal to twice the average monthly income of the client, plus
675 the value of any client's property under the control of the
676 attorney in fact.

677
678 The bond under paragraph (b) or paragraph (c) shall be executed
679 by the licensee as principal and a licensed surety company. The
680 bond shall be conditioned upon the faithful compliance of the
681 licensee with the requirements of licensure and shall be payable
682 to the agency for the benefit of any client who suffers a
683 financial loss as a result of the misuse or misappropriation of
684 funds held pursuant to this subsection. Any surety company that
685 cancel or does not renew the bond of any licensee shall notify
686 the agency in writing not less than 30 days in advance of such
687 action, giving the reason for the cancellation or nonrenewal.
688 Any licensee, administrator, employee, or representative thereof
689 who is granted power of attorney for any client of the facility
690 shall, on a monthly basis, notify the client in writing of any
691 transaction made on behalf of the client pursuant to this
692 subsection, and a copy of such notification given to the client
693 shall be retained in each client's file and available for agency
694 inspection.

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

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

703 (5) Any funds or other property belonging to or due to a
704 client or expendable for his or her account that is received by
705 licensee shall be trust funds and shall be kept separate from
706 the funds and property of the licensee and other clients or
707 shall be specifically credited to such client. Such trust funds
708 shall be used or otherwise expended only for the account of the
709 client. At least once every month, unless upon order of a court
710 of competent jurisdiction, the licensee shall furnish the client
711 and the client's representative a complete and verified
712 statement of all funds and other property to which this
713 subsection applies, detailing the amount and items received,
714 together with their sources and disposition. In any event, the
715 licensee shall furnish such statement annually and upon the
716 discharge or transfer of a client. Any governmental agency or
717 private charitable agency contributing funds or other property
718 to the account of a client shall also be entitled to receive
719 such statement monthly and upon the discharge or transfer of the
720 client.

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

723 1. Intentionally withholds a client's personal funds,
724 personal property, or personal needs allowance, or who demands,
725 beneficially receives, or contracts for payment of all or any
726 part of a client's personal property or personal needs allowance
727 in satisfaction of the facility rate for supplies and services;
728 or

729 2. Borrows from or pledges any personal funds of a client,
730 other than the amount agreed to by written contract under s.
731 429.24,

732

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

735 (b) Any licensee, administrator, employee, or
736 representative thereof who is granted power of attorney for any
737 client of the facility and who misuses or misappropriates funds
738 obtained through this power commits a felony of the third
739 degree, punishable as provided in s. 775.082, s. 775.083, or s.
740 775.084.

741 (7) In the event of the death of a client, a licensee
742 shall return all refunds, funds, and property held in trust to
743 the client's personal representative, if one has been appointed
744 at the time the licensee disburses such funds, or, if not, to
745 the client's spouse or adult next of kin named in a beneficiary
746 designation form provided by the licensee to the client. If the
747 client has no spouse or adult next of kin or such person cannot
748 be located, funds due the client shall be placed in an interest-
749 bearing account and all property held in trust by the licensee
750 shall be safeguarded until such time as the funds and property
751 are disbursed pursuant to the Florida Probate Code. Such funds
752 shall be kept separate from the funds and property of the
753 licensee and other clients of the facility. If the funds of the
754 deceased client are not disbursed pursuant to the Florida
755 Probate Code within 2 years after the client's death, the funds
756 shall be deposited in the Health Care Trust Fund administered by

757 | the agency.

758 | (8) The agency, by rule, may clarify terms and specify
759 | procedures and documentation necessary to administer the
760 | provisions of this section relating to the proper management of
761 | clients' funds and personal property and the execution of surety
762 | bonds.

763 | 400.9981 Rules establishing standards.—

764 | (1) It is the intent of the Legislature that rules
765 | published and enforced pursuant to this part and part II of
766 | chapter 408 include criteria to ensure reasonable and consistent
767 | quality of care and client safety. Rules should make reasonable
768 | efforts to accommodate the needs and preferences of clients to
769 | enhance the quality of life in transitional living facilities.

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

773 | (a) The location of transitional living facilities.

774 | (b) The number of qualifications of all personnel,
775 | including management, medical, nursing, and other professional
776 | personnel and nursing assistants and support personnel having
777 | responsibility for any part of the care given to clients. The
778 | licensee must have enough qualified professional staff available
779 | to carry out and monitor the various professional interventions
780 | in accordance with the stated goals and objectives of each
781 | comprehensive treatment plan.

782 | (c) Requirements for personnel procedures, reporting
783 | procedures, and documentation necessary to implement this part.

784 | (d) Services provided to clients of transitional living

785 facilities.

786 (e) The preparation and annual update of a comprehensive
787 emergency management plan in consultation with the Division of
788 Emergency Management. At a minimum, the rules must provide for
789 plan components that address emergency evacuation
790 transportation; adequate sheltering arrangements; postdisaster
791 activities, including provision of emergency power, food, and
792 water; postdisaster transportation; supplies; staffing;
793 emergency equipment; individual identification of clients and
794 transfer of records; communication with families; and responses
795 to family inquiries.

796 400.9982 Violations; penalties.—

797 (1) Each violation of this part and rules adopted pursuant
798 thereto shall be classified according to the nature of the
799 violation and the gravity of its probable effect on facility
800 clients. The agency shall indicate the classification on the
801 written notice of the violation as follows:

802 (a) Class "I" violations are defined in s. 408.813. The
803 agency shall issue a citation regardless of correction and
804 impose an administrative fine of \$5,000 for an isolated
805 violation, \$7,500 for a patterned violation, and \$10,000 for a
806 widespread violation. Violations may be identified and a fine
807 must be levied notwithstanding the correction of the deficiency
808 giving rise to the violation.

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

813 notwithstanding the correction of the deficiency giving rise to
814 the violation.

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

821 (d) Class "IV" violations are defined in s. 408.813. The
822 agency shall impose an administrative fine for a cited class
823 "IV" violation in an amount not less than \$100 and not exceeding
824 \$200 for each violation. If a deficiency giving rise to a class
825 "IV" violation is corrected within the time specified by the
826 agency, a fine may not be imposed.

827 400.9983 Receivership proceedings.—The agency may apply s.
828 429.22 with regard to receivership proceedings for transitional
829 living facilities.

830 400.9984 Interagency communication.—The agency, the
831 department, the Agency for Persons with Disabilities, and the
832 Department of Children and Families shall develop electronic
833 systems to ensure that relevant information pertaining to the
834 regulation of transitional living facilities and clients is
835 timely and effectively communicated among agencies in order to
836 facilitate the protection of clients. Electronic sharing of
837 information shall include, at a minimum, a brain and spinal cord
838 injury registry and a client abuse registry.

839 Section 2. Subsection (9) of section 381.745, Florida
840 Statutes, is amended to read:

841 381.745 Definitions; ss. 381.739-381.79.—As used in ss.
 842 381.739-381.79, the term:

843 (9) "Transitional living facility" means a state-approved
 844 facility, ~~as defined and licensed under chapter 400 or chapter~~
 845 ~~429, or a facility approved by the brain and spinal cord injury~~
 846 ~~program in accordance with this chapter.~~

847 Section 3. Section 381.75, Florida Statutes, is amended to
 848 read:

849 381.75 Duties and responsibilities of the department, ~~of~~
 850 ~~transitional living facilities, and of residents.~~—Consistent
 851 with the mandate of s. 381.7395, the department shall develop
 852 and administer a multilevel treatment program for individuals
 853 who sustain brain or spinal cord injuries and who are referred
 854 to the brain and spinal cord injury program.

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

860 (2) The department shall refer individuals who have brain
 861 or spinal cord injuries to other state agencies to assure that
 862 rehabilitative services, if desired, are obtained by that
 863 individual.

864 (3) The department, in consultation with emergency medical
 865 service, shall develop standards for an emergency medical
 866 evacuation system that will ensure that all individuals who
 867 sustain traumatic brain or spinal cord injuries are transported
 868 to a department-approved trauma center that meets the standards

869 and criteria established by the emergency medical service and
870 the acute-care standards of the brain and spinal cord injury
871 program.

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

875 (5) The department shall determine the appropriate number
876 of designated acute-care facilities, inpatient rehabilitation
877 centers, and outpatient rehabilitation centers, needed based on
878 incidence, volume of admissions, and other appropriate criteria.

879 (6) The department shall develop standards for designation
880 of transitional living facilities to provide transitional living
881 services for individuals who participate in the brain and spinal
882 cord injury program ~~the opportunity to adjust to their~~
883 ~~disabilities and to develop physical and functional skills in a~~
884 ~~supported living environment.~~

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

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

895 ~~(c) A transitional living facility for an individual who~~
896 ~~has a brain or spinal cord injury shall provide to such~~

897 ~~individual, in a residential setting, a goal-oriented treatment~~
898 ~~program designed to improve the individual's physical,~~
899 ~~cognitive, communicative, behavioral, psychological, and social~~
900 ~~functioning, as well as to provide necessary support and~~
901 ~~supervision. A transitional living facility shall offer at least~~
902 ~~the following therapies: physical, occupational, speech,~~
903 ~~neuropsychology, independent living skills training, behavior~~
904 ~~analysis for programs serving brain-injured individuals, health~~
905 ~~education, and recreation.~~

906 ~~(d) All residents shall use the transitional living~~
907 ~~facility as a temporary measure and not as a permanent home or~~
908 ~~domicile. The transitional living facility shall develop an~~
909 ~~initial treatment plan for each resident within 3 days after the~~
910 ~~resident's admission. The transitional living facility shall~~
911 ~~develop a comprehensive plan of treatment and a discharge plan~~
912 ~~for each resident as soon as practical, but no later than 30~~
913 ~~days after the resident's admission. Each comprehensive~~
914 ~~treatment plan and discharge plan must be reviewed and updated~~
915 ~~as necessary, but no less often than quarterly. This subsection~~
916 ~~does not require the discharge of an individual who continues to~~
917 ~~require any of the specialized services described in paragraph~~
918 ~~(c) or who is making measurable progress in accordance with that~~
919 ~~individual's comprehensive treatment plan. The transitional~~
920 ~~living facility shall discharge any individual who has an~~
921 ~~appropriate discharge site and who has achieved the goals of his~~
922 ~~or her discharge plan or who is no longer making progress toward~~
923 ~~the goals established in the comprehensive treatment plan and~~
924 ~~the discharge plan. The discharge location must be the least~~

925 ~~restrictive environment in which an individual's health, well-~~
926 ~~being, and safety is preserved.~~

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

930 Section 4. Subsection (4) of section 381.78, Florida
931 Statutes, is amended to read:

932 381.78 Advisory council on brain and spinal cord
933 injuries.—

934 (4) The council shall:

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

938 ~~(b) Annually appoint a five-member committee composed of~~
939 ~~one individual who has a brain injury or has a family member~~
940 ~~with a brain injury, one individual who has a spinal cord injury~~
941 ~~or has a family member with a spinal cord injury, and three~~
942 ~~members who shall be chosen from among these representative~~
943 ~~groups: physicians, other allied health professionals,~~
944 ~~administrators of brain and spinal cord injury programs, and~~
945 ~~representatives from support groups with expertise in areas~~
946 ~~related to the rehabilitation of individuals who have brain or~~
947 ~~spinal cord injuries, except that one and only one member of the~~
948 ~~committee shall be an administrator of a transitional living~~
949 ~~facility. Membership on the council is not a prerequisite for~~
950 ~~membership on this committee.~~

951 ~~1. The committee shall perform onsite visits to those~~
952 ~~transitional living facilities identified by the Agency for~~

953 ~~Health Care Administration as being in possible violation of the~~
 954 ~~statutes and rules regulating such facilities. The committee~~
 955 ~~members have the same rights of entry and inspection granted~~
 956 ~~under s. 400.805(4) to designated representatives of the agency.~~

957 ~~2. Factual findings of the committee resulting from an~~
 958 ~~onsite investigation of a facility pursuant to subparagraph 1.~~
 959 ~~shall be adopted by the agency in developing its administrative~~
 960 ~~response regarding enforcement of statutes and rules regulating~~
 961 ~~the operation of the facility.~~

962 ~~3. Onsite investigations by the committee shall be funded~~
 963 ~~by the Health Care Trust Fund.~~

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

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

970 Section 5. Subsection (21) of section 408.802, Florida
 971 Statutes, is amended to read:

972 408.802 Applicability.—The provisions of this part apply
 973 to the provision of services that require licensure as defined
 974 in this part and to the following entities licensed, registered,
 975 or certified by the agency, as described in chapters 112, 383,
 976 390, 394, 395, 400, 429, 440, 483, and 765:

977 (21) Transitional living facilities, as provided under
 978 part XI ~~∇~~ of chapter 400.

979 Section 6. Subsection (20) of section 408.820, Florida
 980 Statutes, is amended to read:

981 408.820 Exemptions.—Except as prescribed in authorizing
 982 statutes, the following exemptions shall apply to specified
 983 requirements of this part:

984 (20) Transitional living facilities, as provided under
 985 part XI ~~∇~~ of chapter 400, are exempt from s. 408.810(10).

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

988 400.93 Licensure required; exemptions; unlawful acts;
 989 penalties.—

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

996 (a) Providers operated by the Department of Health or
 997 Federal Government.

998 (b) Nursing homes licensed under part II.

999 (c) Assisted living facilities licensed under chapter 429,
 1000 when serving their residents.

1001 (d) Home health agencies licensed under part III.

1002 (e) Hospices licensed under part IV.

1003 (f) Intermediate care facilities, homes for special
 1004 services, and transitional living facilities licensed under part
 1005 v.

1006 (g) Hospitals and ambulatory surgical centers licensed
 1007 under chapter 395.

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1008 (h) Manufacturers and wholesale distributors when not
1009 selling directly to consumers.

1010 (i) Licensed health care practitioners who utilize home
1011 medical equipment in the course of their practice, but do not
1012 sell or rent home medical equipment to their patients.

1013 (j) Pharmacies licensed under chapter 465.

1014 (k) Transitional living facilities licensed under part XI.

1015 Section 8. Section 400.805, Florida Statutes, is repealed.

1016 Section 9. All transitional living facilities licensed
1017 under s. 400.805, Florida Statutes, on or before July 1, 2013,
1018 shall be licensed under this act.

1019 Section 10. This act shall take effect July 1, 2013.