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LEGISLATIVE ACTION

Senate . House

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Senator Garcia moved the following:

Senate Amendment (with title amendment)

Between lines 2509 and 2510

insert:

Section 39. Part XI of chapter 400, Florida Statutes, consisting of sections 400.997 through 400.9985, is created to read:

PART XI

TRANSITIONAL LIVING FACILITIES

400.997 Legislative intent.—It is the intent of the Legislature to provide for the licensure of transitional living

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facilities and require the development, establishment, and enforcement of basic standards by the Agency for Health Care Administration to ensure quality of care and services to clients in transitional living facilities. It is the policy of the state that the least restrictive appropriate available treatment be used based on the individual needs and best interest of the client, consistent with optimum improvement of the client's condition. The goal of a transitional living program for persons who have brain or spinal cord injuries is to assist each person who has such an injury to achieve a higher level of independent functioning and to enable the person to reenter the community. It is also the policy of the state that the restraint or seclusion of a client is justified only as an emergency safety measure used in response to danger to the client or others. It is therefore the intent of the Legislature to achieve an ongoing reduction in the use of restraint or seclusion in programs and facilities that serve persons who have brain or spinal cord injuries.

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

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

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

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

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

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

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

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

400.9972 License required; fee; application.—

(1) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this part and part II of chapter 408 and to entities licensed by or

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applying for licensure from the agency pursuant to this part. A license issued by the agency is required for the operation of a transitional living facility in this state. However, this part does not require a provider licensed by the agency to obtain a separate transitional living facility license to serve persons who have brain or spinal cord injuries as long as the services provided are within the scope of the provider's license.

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

(3) An applicant for licensure must provide:

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

(b) Proof of liability insurance as defined in s. 624.605(1)(b).

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

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

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

(4) The applicant's proposed facility must attain and continuously maintain accreditation by an accrediting

organization that specializes in evaluating rehabilitation facilities whose standards incorporate licensure regulations comparable to those required by the state. An applicant for licensure as a transitional living facility must acquire accreditation within 12 months after issuance of an initial license. The agency shall accept the accreditation survey report of the accrediting organization in lieu of conducting a licensure inspection if the standards included in the survey report are determined by the agency to document that the facility substantially complies with state licensure requirements. Within 10 days after receiving the accreditation survey report, the applicant shall submit to the agency a copy of the report and evidence of the accreditation decision as a result of the report. The agency may conduct an inspection of a transitional living facility to ensure compliance with the licensure requirements of this part, to validate the inspection process of the accrediting organization, to respond to licensure complaints, or to protect the public health and safety.

400.9973 Client admission, transfer, and discharge.—

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

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

(3) A client admitted to a transitional living facility must have a brain or spinal cord injury, such as a lesion to the spinal cord or cauda equina syndrome, with evidence of significant involvement of at least two of the following

deficits or dysfunctions:

(a) A motor deficit.

(b) A sensory deficit.

(c) Bowel and bladder dysfunction.

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

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

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

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

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

(a) Presents significant risk of infection to other clients or personnel. A health care practitioner must provide documentation that the person is free of apparent signs and

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symptoms of communicable disease;

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

(c) Is bedridden; or

(d) Requires 24-hour nursing supervision.

(8) If the client meets the admission criteria, the medical or nursing director of the facility 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 72 hours after the client's admission to the facility. An initial comprehensive treatment plan that delineates services to be provided and appropriate sources for such services must be implemented within the first 4 days after admission.

(9) A transitional living facility shall develop a discharge plan for each client before or upon admission to the facility. The discharge plan must identify the intended discharge site and possible alternative 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. A discharge plan must be reviewed and updated as necessary but at least once monthly.

(10) A transitional living facility shall discharge a client as soon as practicable when the client no longer requires the specialized services described in s. 400.9971(7), when the

client is not making measurable progress in accordance with the client's comprehensive treatment plan, or when the transitional living facility is no longer the most appropriate and least restrictive treatment option.

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

400.9974 Client comprehensive treatment plans; client services.—

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

(2) The comprehensive treatment plan must include:

(a) Orders obtained from the physician, physician assistant, or advanced registered nurse practitioner and the client's diagnosis, medical history, physical examination, and

rehabilitative or restorative needs.

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

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

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

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

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

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

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

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

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

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

400.9975 Licensee responsibilities.—

(1) The licensee shall ensure that each client:

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

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

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

(d) Has unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visits with any person of his or her choice. Upon request, the licensee shall modify visiting hours for caregivers and guests. The facility shall restrict communication in accordance with any court order or written instruction of a client's representative. Any restriction on a client's communication for therapeutic reasons shall be documented and reviewed at least weekly and shall be removed as soon as no

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longer clinically indicated. The basis for the restriction shall be explained to the client and, if applicable, the client's representative. The client shall retain the right to call the central abuse hotline, the agency, and Disability Rights Florida at any time.

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

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

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

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

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

(j) Has the opportunity to present grievances and recommend changes in policies, procedures, and services to the staff of the licensee, governing officials, or any other person without restraint, interference, coercion, discrimination, or reprisal. A licensee shall establish a grievance procedure to facilitate a client's ability to present grievances, including a system for

investigating, tracking, managing, and responding to complaints by a client or, if applicable, the client's representative and an appeals process. The appeals process must include access to Disability Rights Florida and other advocates and the right to be a member of, be active in, and associate with advocacy or special interest groups.

(2) The licensee shall:

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

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

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

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

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

(3) The administrator of a facility shall ensure that a written notice of licensee responsibilities is posted in a prominent place in each building where clients reside and is read or explained to clients who cannot read. This notice shall be provided to clients in a manner that is clearly legible,

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shall include the statewide toll-free telephone number for reporting complaints to the agency, and shall include the words: "To report a complaint regarding the services you receive, please call toll-free ...[telephone number]... or Disability Rights Florida ...[telephone number]...." The statewide toll-free telephone number for the central abuse hotline shall be provided to clients in a manner that is clearly legible and shall include the words: "To report abuse, neglect, or exploitation, please call toll-free ...[telephone number]...." The licensee shall ensure a client's access to a telephone where telephone numbers are posted as required by this subsection.

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

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

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

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

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

400.9976 Administration of medication.—

(1) An individual medication administration record must be

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

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

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

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practitioner.

400.9977 Assistance with medication.—

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

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

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

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

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

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

(d) Maintain documentation of compliance with required training.

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

400.9978 Protection of clients from abuse, neglect, mistreatment, and exploitation.—The licensee shall develop and implement policies and procedures for the screening and training

of employees; the protection of clients; and the prevention, identification, investigation, and reporting of abuse, neglect, mistreatment, and exploitation. The licensee shall identify clients whose personal histories render them at risk for abusing other clients, develop intervention strategies to prevent occurrences of abuse, monitor clients for changes that would trigger abusive behavior, and reassess the interventions on a regular basis. A licensee shall:

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

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

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

(a) Evaluating the physical environment of the facility to

identify characteristics that may make abuse or neglect more likely to occur, such as secluded areas.

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

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

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

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

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

(6) Protect clients from harm during an investigation.

(7) Report alleged violations and substantiated incidents, as required under chapters 39 and 415, to the licensing authorities and all other agencies, as required, and report any knowledge of actions by a court of law that would indicate an

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employee is unfit for service.

400.9979 Restraint and seclusion; client safety.—

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

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

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

(4) Based on the assessment by a physician, physician assistant, or advanced registered nurse practitioner, if a client exhibits symptoms that present an immediate risk of injury or death to himself or herself or others, a physician, physician assistant, or advanced registered nurse practitioner may issue an emergency treatment order to immediately administer rapid-response psychotropic medications or other chemical restraints. Each emergency treatment order must be documented

and maintained in the client's record.

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

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

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

(a) The continued need for the medication.

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

(c) The need for adjustments to the prescription.

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

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

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

(9) A facility shall notify the parent, guardian, or, if applicable, the client's representative when restraint or seclusion is employed. The facility must provide the notification within 24 hours after the restraint or seclusion is

employed. Reasonable efforts must be taken to notify the parent, guardian, or, if applicable, the client's representative by telephone or e-mail, or both, and these efforts must be documented.

(10) The agency may adopt rules that establish standards and procedures for the use of restraints, restraint positioning, seclusion, and emergency treatment orders for psychotropic medications, restraint, and seclusion. These rules must include duration of restraint, staff training, observation of the client during restraint, and documentation and reporting standards.

400.998 Personnel background screening; administration and management procedures.—

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

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

(3) The licensee must:

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

(b) Maintain liability insurance as defined in s.

624.605(1)(b).

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

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

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

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

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

(h) Maintain written records in a form and system that comply with medical and business practices and make the records available by the facility for review or submission to the agency

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upon request. The records shall include:

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

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

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

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

400.9981 Property and personal affairs of clients.—

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

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

management of the facility or for the safety of the client.

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

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

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

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

The surety bond required under paragraph (b) or paragraph (c) shall be executed by the licensee as principal and a licensed surety company. The bond shall be conditioned upon the faithful compliance of the licensee with the requirements of licensure and is payable to the agency for the benefit of a client who suffers a financial loss as a result of the misuse or misappropriation of funds held pursuant to this subsection. A surety company that cancels or does not renew the bond of a licensee shall notify the agency in writing at least 30 days before the action, giving the reason for cancellation or nonrenewal. A licensee or administrator, or an employee or representative thereof, who is granted power of attorney for a

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client of the facility shall, on a monthly basis, notify the client in writing of any transaction made on behalf of the client pursuant to this subsection, and a copy of the notification given to the client shall be retained in the client's file and available for agency inspection.

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

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

entitled to receive a statement monthly and upon the discharge or transfer of the client.

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

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

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

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

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

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

(7) In the event of the death of a client, a licensee shall return all refunds, funds, and property held in trust to the client's personal representative, if one has been appointed at the time the licensee disburses such funds, or, if not, to the client's spouse or adult next of kin named in a beneficiary designation form provided by the licensee to the client. If the client does not have a spouse or adult next of kin or such person cannot be located, funds due to be returned to the client

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shall be placed in an interest-bearing account, and all property held in trust by the licensee shall be safeguarded until such time as the funds and property are disbursed pursuant to the Florida Probate Code. The funds shall be kept separate from the funds and property of the licensee and other clients of the facility. If the funds of the deceased client are not disbursed pursuant to the Florida Probate Code within 2 years after the client's death, the funds shall be deposited in the Health Care Trust Fund administered by the agency.

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

400.9982 Rules establishing standards.—

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

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

(a) The location of transitional living facilities.

(b) The qualifications of personnel, including management, medical, nursing, and other professional personnel and nursing assistants and support staff, who are responsible for client

737 care. The licensee must employ enough qualified professional
738 staff to carry out and monitor interventions in accordance with
739 the stated goals and objectives of each comprehensive treatment
740 plan.
741 (c) Requirements for personnel procedures, reporting
742 procedures, and documentation necessary to implement this part.
743 (d) Services provided to clients of transitional living
744 facilities.
745 (e) The preparation and annual update of a comprehensive
746 emergency management plan in consultation with the Division of
747 Emergency Management. At a minimum, the rules must provide for
748 plan components that address emergency evacuation
749 transportation; adequate sheltering arrangements; postdisaster
750 activities, including provision of emergency power, food, and
751 water; postdisaster transportation; supplies; staffing;
752 emergency equipment; individual identification of clients and
753 transfer of records; communication with families; and responses
754 to family inquiries.
755 400.9983 Violations; penalties.—A violation of this part or
756 any rule adopted pursuant thereto shall be classified according
757 to the nature of the violation and the gravity of its probable
758 effect on facility clients. The agency shall indicate the
759 classification on the written notice of the violation as
760 follows:
761 (1) Class I violations are defined in s. 408.813. The
762 agency shall issue a citation regardless of correction and
763 impose an administrative fine of $5,000 for an isolated
764 violation, $7,500 for a patterned violation, or $10,000 for a
765 widespread violation. Violations may be identified, and a fine

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

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

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

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

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

400.9985 Interagency communication.—The agency, the department, the Agency for Persons with Disabilities, and the Department of Children and Families shall develop electronic systems to ensure that relevant information pertaining to the regulation of transitional living facilities and clients is timely and effectively communicated among agencies in order to

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facilitate the protection of clients. Electronic sharing of information shall include, at a minimum, a brain and spinal cord injury registry and a client abuse registry.

Section 40. Section 400.805, Florida Statutes, is repealed.

Section 41. The title of part V of chapter 400, Florida Statutes, consisting of sections 400.701-400.801, is redesignated as "INTERMEDIATE CARE FACILITIES."

Section 42. Subsection (9) of section 381.745, Florida Statutes, is amended to read:

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

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

Section 43. Section 381.75, Florida Statutes, is amended to read:

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

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

(2) The department shall refer individuals who have brain

or spinal cord injuries to other state agencies to ensure ~~assure~~ that rehabilitative services, if desired, are obtained by that individual.

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

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

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

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

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

~~(b) The goal of a transitional living program for~~

~~individuals who have brain or spinal cord injuries is to assist each individual who has such a disability to achieve a higher level of independent functioning and to enable that person to reenter the community. The program shall be focused on preparing participants to return to community living.~~

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

~~(d) All residents shall use the transitional living facility as a temporary measure and not as a permanent home or domicile. The transitional living facility shall develop an initial treatment plan for each resident within 3 days after the resident's admission. The transitional living facility shall develop a comprehensive plan of treatment and a discharge plan for each resident as soon as practical, but no later than 30 days after the resident's admission. Each comprehensive treatment plan and discharge plan must be reviewed and updated as necessary, but no less often than quarterly. This subsection does not require the discharge of an individual who continues to require any of the specialized services described in paragraph (c) or who is making measurable progress in accordance with that~~

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~~individual's comprehensive treatment plan. The transitional living facility shall discharge any individual who has an appropriate discharge site and who has achieved the goals of his or her discharge plan or who is no longer making progress toward the goals established in the comprehensive treatment plan and the discharge plan. The discharge location must be the least restrictive environment in which an individual's health, well-being, and safety is preserved.~~

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

Section 44. Subsection (4) of section 381.78, Florida Statutes, is amended to read:

381.78 Advisory council on brain and spinal cord injuries.—

(4) The council shall~~:~~

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

~~(b) Annually appoint a five-member committee composed of one individual who has a brain injury or has a family member with a brain injury, one individual who has a spinal cord injury or has a family member with a spinal cord injury, and three members who shall be chosen from among these representative groups: physicians, other allied health professionals, administrators of brain and spinal cord injury programs, and representatives from support groups with expertise in areas related to the rehabilitation of individuals who have brain or spinal cord injuries, except that one and only one member of the committee shall be an administrator of a transitional living~~

~~facility. Membership on the council is not a prerequisite for membership on this committee.~~

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

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

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

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

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

Section 45. Subsection (5) of section 400.93, Florida Statutes, is amended to read:

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

(5) The following are exempt from home medical equipment provider licensure, unless they have a separate company, corporation, or division that is in the business of providing home medical equipment and services for sale or rent to

consumers at their regular or temporary place of residence pursuant to the provisions of this part:

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

(b) Nursing homes licensed under part II.

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

(d) Home health agencies licensed under part III.

(e) Hospices licensed under part IV.

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

(g) Transitional living facilities licensed under part XI.

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

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

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

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

Section 46. Subsection (21) of section 408.802, Florida Statutes, is amended to read:

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

(21) Transitional living facilities, as provided under part

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XI ~~V~~ of chapter 400.

Section 47. Subsection (20) of section 408.820, Florida Statutes, is amended to read:

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

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

Section 48. Effective July 1, 2015, a transitional living facility licensed before the effective date of this act pursuant to s. 400.805, Florida Statutes, must be licensed under part XI of chapter 400, Florida Statutes, as created by this act.

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

And the title is amended as follows:

Delete line 213

and insert:

chapter 400, F.S., in certain circumstances; creating part XI of ch. 400, F.S.; providing legislative intent; providing definitions; requiring the licensure of transitional living facilities; providing license fees and application requirements; requiring accreditation of licensed facilities; providing requirements for transitional living facility policies and procedures governing client admission, transfer, and discharge; requiring a comprehensive treatment plan to be developed for each client; providing plan and staffing requirements; requiring certain consent for continued treatment in a transitional living

facility; providing licensee responsibilities; providing notice requirements; prohibiting a licensee or employee of a facility from serving notice upon a client to leave the premises or take other retaliatory action under certain circumstances; requiring the client and client's representative to be provided with certain information; requiring the licensee to develop and implement certain policies and procedures; providing licensee requirements relating to administration of medication; requiring maintenance of medication administration records; providing requirements for administration of medications by unlicensed staff; specifying who may conduct training of staff; requiring licensees to adopt policies and procedures for administration of medications by trained staff; requiring the Agency for Health Care Administration to adopt rules; providing requirements for the screening of potential employees and training and monitoring of employees for the protection of clients; requiring licensees to implement certain policies and procedures to protect clients; providing conditions for investigating and reporting incidents of abuse, neglect, mistreatment, or exploitation of clients; providing requirements and limitations for the use of physical restraints, seclusion, and chemical restraint medication on clients; providing a limitation on the duration of an emergency treatment order; requiring notification of certain persons when restraint or seclusion is imposed; authorizing the

agency to adopt rules; providing background screening requirements; requiring the licensee to maintain certain personnel records; providing administrative responsibilities for licensees; providing recordkeeping requirements; providing licensee responsibilities with respect to the property and personal affairs of clients; providing requirements for a licensee with respect to obtaining surety bonds; providing recordkeeping requirements relating to the safekeeping of personal effects; providing requirements for trust funds or other property received by a licensee and credited to the client; providing a penalty for certain misuse of a client's personal funds, property, or personal needs allowance; providing criminal penalties for violations; providing for the disposition of property in the event of the death of a client; authorizing the agency to adopt rules; providing legislative intent; authorizing the agency to adopt and enforce rules establishing standards for transitional living facilities and personnel thereof; classifying violations and providing penalties therefor; providing administrative fines for specified classes of violations; authorizing the agency to apply certain provisions with regard to receivership proceedings; requiring the agency, the Department of Health, the Agency for Persons with Disabilities, and the Department of Children and Families to develop electronic information systems for certain purposes; repealing s. 400.805, F.S., relating

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to transitional living facilities; revising the title of part V of ch. 400, F.S.; amending s. 381.745, F.S.; revising the definition of the term "transitional living facility," to conform; amending s. 381.75, F.S.; revising the duties of the Department of Health and the agency relating to transitional living facilities; amending ss. 381.78, 400.93, 408.802, and 408.820, F.S.; conforming provisions to changes made by the act; providing applicability with respect to transitional living facilities licensed before a specified date; providing