Health Care Appropriations Subcommittee

Meeting Packet

March 31, 2014
11:00 AM—1:00 PM

Webster Hall

Will Weatherford
Speaker

Matt Hudson
Chair

AGENDA

Health Care Appropriations Subcommittee
March 31, 2014
11:00 AM—1:00 PM
Webster Hall

I. Call to Order

II. Roll Call

III. CS/HB 303—Licensing of Facilities that Offer Health & Human Services by Berman

IV. CS/HB 479—Substance Abuse Services by Hager

V. HB 799—Transitional Living Facilities by Magar

VI. CS/HB 1055—Onsite Sewage Treatment & Disposal Systems by Mayfield

VII. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 303 Licensing of Facilities that Offer Health and Human Services
SPONSOR(S): Healthy Families Subcommittee; Berman
TIED BILLS: **IDEN./SIM. BILLS:** SB 394

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee	12 Y, 0 N, As CS	Entress	Brazzell
2) Health Care Appropriations Subcommittee		Fontaine	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Child care can be provided by family day care homes, child care facilities, and large family child care homes. These facilities and homes are subject to a number of regulations by the Department of Children and Families (DCF). The bill makes the following changes to the regulations of these facilities and homes:

- Amends the definition of "child care facility" to reduce the number of children that the facility must care for in order to be considered a child care facility from more than 5 children to more than 4 children unrelated to the operator;
- Amends the definition of "family day care home" to include a home advertising the availability of its services, whether or not it receives a fee or payment;
- Clarifies that child care personnel of resorts providing child care services solely for the guests of their establishments must be screened according to the level 2 screening requirements of chapter 435;
- Requires that child care facilities exempt from licensing requirements include the state or local agency license number or registration number of the facility when advertising;
- Defines advertisement;
- Requires licensed or registered family day care homes and large family child care homes to conspicuously display the license or registration in the common area of the home;
- Requires that the substitute for a registered family day care home meet the screening and training requirements of DCF; and
- Specifies that the background checks are required for the operator, each household member, and the designated substitute of a registered family day care home.

The bill also changes the Department of Children and Family Services to the Department of Children and Families, to conform to current law.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The definition of "child care" provides for a payment, fee or grant for the supervision of a child for less than 24 hours a day on a regular basis.[1] According to the Department of Children & Families (DCF), in fiscal year 2011-12, DCF issued licenses to approximately 4,671 child care facilities, 1,484 family day care homes and 315 large family child care homes in Florida.[2] In addition, DCF indicated that there are 1,132 registered child care homes.[3] These facilities serve over 481,445 children.[4]

Child Care Facilities

"Child care facility" is defined as a child care center or child care arrangement providing child care for more than five children unrelated to the operator, wherever operated and whether or not operated for profit which receives a payment, fee or grant.[5]

Family Day Care Homes

A family day care home must be licensed if it is presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed.[6] If a family day care home is not subject to a license, it must register annually with the Department of Children and Families (DCF) and provide certain information, including proof of screening and background checks.[7]

Large Family Child Care Home

A large family child care home means an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.[8] A large family child care home must be licensed.[9] The child care personnel subject to the applicable screening provisions of s. 402.305(2) and 402.3055, F.S., includes any member of a large family child care home operator's family 12 years of age or older, or any person 12 years of age or older residing with the operator in the large family care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years, inclusive, shall not be required to be fingerprinted, but shall be screened for delinquency records.[10]

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[1] S. 402.302, F.S.
[2] DCF quick facts, The Department of Children and Families, *accessible at:* http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCQQFjAA&url=http%3A%2F%2Fwww.dcf.state.fl.us%2Fnewsroom%2Fdocs%2Fquickfacts.pdf&ei=C-gVU5v_DcbLkQew5YGwCw&usg=AFQjCNEv_uft2t02o8RxRNIWaLzoCFIzJQ (last visited March 4, 2014).
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] Section 402.313, F.S.
[7] *Id.*
[8] *Supra* at note 2.
[9] *Supra* at note 6.
[10] *Id.*

Advertising

A person may not advertise a child care facility, a family day care home or a large family child care home without including the state or local agency license number or registration number of the facility. If a person advertises without a license or registration number, the violation is a misdemeanor of the first degree.[11]

Effect of Proposed Changes

Child Care Facilities

The bill changes the definition of child care facility to reduce the number of children that the facility must care for in order to be considered a child care facility from more than 5 children to more than 4 children unrelated to the operator.

The bill clarifies that child care personnel of resorts providing child care services solely for the guests of their establishments must be screened according to the level 2 screening requirements of chapter 435. Currently, the screening only applies to child care personnel of establishments which provide child care services for the guests of their establishments. The bill expands this to resorts as well.

Currently, a person may not advertise child care facilities, family day care homes, and large family day care homes without including the state or local agency license number or registration number of the facility or home. The bill adds child care facilities exempt from licensing requirements to these advertising restrictions. The bill also defines advertisement as including, but not limited to, the marketing of child care services to the public on vehicles, print materials, electronic media, including Internet sites, and radio and television announcements.

Family Day Care Homes

The bill changes the definition of family day care home to include a home advertising the availability of its services, whether or not it receives a fee or payment.

The bill requires licensed or registered family day care homes to conspicuously display the license or registration in the common area of the home.

Current law requires a registered family day care home to provide DCF with proof of a written plan to provide at least one other competent adult to be available as a substitute for the operator in an emergency. The bill requires that the substitute identified in the written plan has met the screening and training requirements of DCF to serve as a designated substitute.

Currently, registered family day care homes are required to provide DCF proof of screening and background checks. The bill specifies that the background checks are required for the operator, each household member, and the designated substitute.

Large Family Child Care Homes

The bill requires a large family child care home to permanently post its licensed in a conspicuous location that is visible by all parents and guardians, as well as DCF.

The bill also changes the Department of Children and Family Services to the Department of Children and Families, to conform to current law.

[11] Section 402.318, F.S.

The bill provides an effective date of July 1, 2014.

B. SECTION DIRECTORY:

Section 1: Amends s. 402.302, F.S., relating to definitions.
Section 2: Amends s. 402.313, F.S., relating to family day care homes.
Section 3: Amends s. 402.3131, F.S., relating to large family child care homes.
Section 4: Amends s. 402.318, F.S., relating to advertisement.
Section 5: Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill could result in a negative local jail bed impact because it creates a new misdemeanor for any entity or person who advertises as a child care facility as defined in s. 402.316, without including the state or local agency license number, exemption number, or registration number of such facility within the advertisement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill modifies the definition of a licensed child care facility by reducing the number of children in care from no more than five children to no more than four children. This decrease may expand the number of licensed facilities, but such change is expected to be minimal.[12]

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

[12] Based upon data provided in an e-mail dated March 19, 2014 from Tim Parson, Legislative Affairs Director for the Department of Children and Families, and on file with staff of the Health Care Appropriations Subcommittee.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2014, the Healthy Families Subcommittee adopted a strike-all amendment. The strike-all amendment made the following changes:

- Creates a definition of the term "advertise" in the definition section.
- Restores current language in the definitions of "child care facility" and "child care".
- Redefines the term "family day care home" to include a home advertising the availability of its services, whether or not it receives a fee or payment.
- Restores current language regarding maximum fees charged for licensure of a child care facility.

A bill to be entitled

An act relating to the licensing of facilities that offer health and human services; amending s. 402.302, F.S.; revising and providing definitions; amending s. 402.313, F.S.; requiring a family day care home to conspicuously display its license or registration in the common area of the home, to provide proof of a written plan that identifies a designated substitute for the operator, and to provide proof of screening and background checks for certain individuals; amending s. 402.3131, F.S.; requiring a large family child care home to permanently post its license in a conspicuous location that is visible by all parents and guardians and the Department of Children and Families; amending s. 402.318, F.S.; prohibiting the advertising of a child care facility, family day care home, or large family child care home unless it is licensed or registered; amending ss. 402.317 and 1002.88, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsections (1) through (18) of section 402.302, Florida Statutes, are renumbered as subsections (2) through (19), respectively, present subsections (1), (2), (5),

and (8) are amended, and a new subsection (1) is added to that section, to read:

402.302 Definitions.—As used in this chapter, the term:

(1) "Advertise" means to market child care services through any means, including, but not limited to, online message boards, vehicle signs, newspaper advertisements, roadside signs, flyers or posters, and radio and television announcements.

(2) ~~(1)~~ "Child care" means the care, protection, and supervision of a child, for ~~a period of~~ less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care.

(3) ~~(2)~~ "Child care facility" means a ~~includes any~~ child care center or child care arrangement that ~~which~~ provides child care for more than four ~~five~~ children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included:

(a) Public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025;

(b) Summer camps having children in full-time residence;

(c) Summer day camps;

(d) Bible schools normally conducted during vacation periods; and

(e) Operators of transient establishments~~,~~ as defined in

chapter 509~~,~~ which provide child care services solely for the guests of their establishment or resort, if ~~provided that~~ all child care personnel of the establishment or resort are screened according to the level 2 screening requirements of chapter 435.

(6)~~(5)~~ "Department" means the Department of Children and Families ~~Family Services~~.

(9)~~(8)~~ "Family day care home" means an occupied residence in which child care is regularly provided for children from at least two unrelated families and either ~~which~~ receives a payment, fee, or grant for any of the children receiving care, regardless of whether ~~or not~~ operated for profit, or advertises the availability of its services, regardless of whether it receives a payment, fee, or grant for any of the children receiving care, and regardless of whether operated for profit. Household children under 13 years of age, when on the premises of the family day care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A family day care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older

than 12 months of age.

(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

Section 2. Subsection (1) of section 402.313, Florida Statutes, is amended to read:

402.313 Family day care homes.—

(1) A family day care home must ~~homes shall~~ be licensed under this section ~~act~~ if it is ~~they are~~ presently being licensed under an existing county licensing ordinance or if the board of county commissioners passes a resolution that family day care homes be licensed. Each licensed or registered family day care home must conspicuously display its license or registration in the common area of the home.

(a) If not subject to license, a family day care home must ~~homes shall~~ register annually with the department and provide~~,~~ ~~providing~~ the following information:

1. The name and address of the home.

2. The name of the operator.

3. The number of children served.

4. Proof of a written plan to identify a ~~provide at least one other~~ competent adult who has met the screening and training requirements of the department to serve as a designated substitute ~~to be available to substitute~~ for the operator in an emergency. This plan must ~~shall~~ include the name, address, and telephone number of the designated substitute.

5. Proof of screening and background checks for the operator, each household member, and the designated substitute.

6. Proof of successful completion of the 30-hour training course, as evidenced by passage of a competency examination, which must ~~shall~~ include:

a. State and local rules and regulations that govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language development; and cognitive, motor, social, and self-help skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine a child's developmental level.

f. Specialized areas, including early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators of family day care homes.

7. Proof that immunization records are kept current.

8. Proof of completion of the required continuing education units or clock hours.

(b) A family day care home may volunteer to be licensed ~~under this act~~.

(c) The department may provide technical assistance to counties and family day care home providers to enable counties

and family day care providers to achieve compliance with family day care homes standards.

Section 3. Subsection (1) of section 402.3131, Florida Statutes, is amended to read:

402.3131 Large family child care homes.—

(1) A large family child care home must ~~homes shall~~ be licensed under this section and permanently post its license in a conspicuous location that is visible by all parents and guardians and the department.

(a) A licensed family day care home must first have operated for a minimum of 2 consecutive years, with an operator who has had a child development associate credential or its equivalent for 1 year, before seeking licensure as a large family child care home.

(b) The department may provide technical assistance to counties and family day care home providers to enable the counties and providers to achieve compliance with minimum standards for large family child care homes.

Section 4. Section 402.317, Florida Statutes, is amended to read:

402.317 Prolonged child care.—Notwithstanding the time restriction specified in s. 402.302(2) ~~402.302(1)~~, child care may be provided for 24 hours or longer for a child whose parent or legal guardian works a shift of 24 hours or more. The requirement that a parent or legal guardian work a shift of 24 hours or more must be certified in writing by the employer, and

the written certification shall be maintained in the facility by the child care provider and made available to the licensing agency. The time that a child remains in child care, however, may not exceed 72 consecutive hours in any 7-day period. During a declared state of emergency, the child care licensing agency may temporarily waive the time limitations provided in this section.

Section 5. Section 402.318, Florida Statutes, is amended to read:

402.318 Advertisement.—A person, as defined in s. 1.01 ~~s. 1.01(3)~~, may not advertise a child care facility as defined in s. 402.302, a child care facility that is exempt from licensing requirements pursuant to s. 402.316, a family day care home as defined in s. 402.302, or a large family child care home as defined in s. 402.302 without including within such advertisement the state or local agency license number, exemption number, or registration number of the ~~such~~ facility or home. A person who violates ~~Violation of~~ this section commits ~~is~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. Paragraph (d) of subsection (1) of section 1002.88, Florida Statutes, is amended to read:

1002.88 School readiness program provider standards; eligibility to deliver the school readiness program.—

(1) To be eligible to deliver the school readiness program, a school readiness program provider must:

(d) Provide an appropriate staff-to-children ratio, pursuant to s. 402.305(4) or s. 402.302(9) or (12) ~~402.302(8) or (11)~~, as applicable, and as verified pursuant to s. 402.311.

Section 7. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 479 Substance Abuse Services
SPONSOR(S): Healthy Families Subcommittee, Hager and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Healthy Families Subcommittee	12 Y, 0 N, As CS	McElroy	Brazzell
2) Health Care Appropriations Subcommittee		Fontaine	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill defines "recovery residence" as a residential dwelling unit or other form of group housing that is offered or advertised through any form, including oral, written, electronic or printed means, by any person or entity to be a residence that provides a peer-supported, alcohol-free and drug-free living environment.

The bill establishes a program for voluntary certification of recovery residences. The bill defines "certified recovery residence" as a recovery residence that either:

- Holds a valid certificate of compliance; or
- Is actively managed by a certified recovery residence administrator.

The bill creates s. 397.487, F.S., governing voluntary certificates of compliance for recovery residences. It requires DCF to select a credentialing entity to issue certificates of compliance and establishes the criteria for selecting the entity. The bill requires the credentialing entity to inspect recovery residences prior to the initial certification and during every subsequent renewal period and to automatically terminate certification if it is not renewed within one year of the issuance date. The bill provides for an initial application and renewal fee of the recovery residence to the credentialing entity. The bill requires all recovery residence staff to pass a Level II background screening, and that the costs associated with such screenings be the responsibility of the credentialing entity. It requires the credentialing agency to deny certification, and allows it to suspend or revoke the certification, if a recovery residence fails to meet and maintain certain criteria.

The bill creates s. 397.4871, F.S., to establish a voluntary certification for recovery residences administrators. The bill requires DCF to select a credentialing entity to develop and administer the program. The bill establishes the criteria DCF is to use when selecting a credentialing entity and creating the certification program. The bill requires that all certified recovery residence administrators pass a Level II background screening, and that the costs associated with such screenings be the responsibility of the credentialing entity. The bill provides for an initial application and renewal fee of the recovery residence administrator to the credentialing entity. The bill authorizes the credentialing entity to suspend or revoke certification if a certified recovery residence administrator does not meet and maintain certain criteria.

The bill creates a first degree misdemeanor for any entity or person who advertises as a "certified recovery residence" or "certified recovery residence administrator", respectively, unless the entity or person has obtained certification under this section.

The bill creates s. 397.4872, F.S., to allow DCF to exempt an individual from the disqualifying offenses of a Level II background screening if the individual meets certain criteria and the recovery residence attests that it is in the best interest of the program. It also requires DCF to publish a list of all recovery residences and recovery residences administrators on its website but allows a recovery residence or recovery residence administrator to be excluded from the list upon written request to DCF.

The bill amends s. 397.407, F.S., to require, effective October 1, 2015, a licensed service provider to refer a current or discharged patient only to a recovery residence that holds a valid certificate of compliance, is actively managed by a certified recovery residence administrator, or both, or is owned and operated by a licensed service provider.

The bill has an insignificant, negative fiscal impact on the Department of Children and Families and may also have a negative, local jail bed impact.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Recovery Residences

There is no universally accepted definition of "recovery residence" (also known as "sober home" or "sober living home"). One definition is that recovery residences:

- Are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs;
- Offer no formal treatment but perhaps mandate or strongly encourage attendance at 12-step groups; and
- Are self-funded through resident fees, and residents may reside there as long as they are in compliance with the residence's rules.[1]

Some recovery residences voluntarily join coalitions or associations[2] that monitor health, safety, quality, and adherence to the membership requirements for the specific coalition or association.[3] The exact number of recovery residences in Florida is currently unknown.[4]

Multiple studies have found that individuals benefit in their recovery by residing in a recovery residence. For example, an Illinois study found regarding those residing in an Oxford House, a very specific type of recovery residence, that:

> [T]hose in the Oxford Houses... had significantly lower substance use (31.3% vs. 64.8%), significantly higher monthly income ($989.40 vs. $440.00), and significantly lower incarceration rates (3% vs. 9%). Oxford House participants, by month 24, earned roughly $550 more per month than participants in the usual-care group. In a single year, the income difference for the entire Oxford House sample corresponds to approximately $494,000 in additional production. In 2002, the state of Illinois spent an average of $23,812 per year to incarcerate each drug offender. The lower rate of incarceration among Oxford House versus usual-care participants at 24 months (3% vs. 9%) corresponds to an annual saving of roughly $119,000 for Illinois. Together, the productivity and incarceration benefits yield an estimated $613,000 in savings per year, or an average of $8,173 per Oxford House member.[5]

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[1] *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses,.*, J Psychoactive Drugs, Jun 2008; 40(2): 153–159, Douglas L. Polcin, Ed.D., MFT and Diane Henderson, B.A.

[2] Id.

[3] Id.

[4] *Recovery Residence Report*, Department of Children and Families, Office of Substance Abuse and Mental Health, October 1, 2013 , available at https://www.google.com/url?q=http://www.dcf.state.fl.us/programs/samh/docs/SoberHomesPR/DCFProvisoRpt-SoberHomes.pdf&sa=U&ei=Z6MkU4-nEZCqkAeFnIHoAg&ved=0CAYQFjAA&client=internal-uds-cse&usg=AFQjCNGWYVuZhTcEpRYTnWNvtqqVM3WoDg (last visited on March 15, 2014). A commonly expressed theme has been that the number is currently unknown, given that the operation of a recovery residence has not come under the purview of a regulatory entity.

[5] L. Jason, B. Olson, J., Ferrari, and A. Lo Sasso, *Communal Housing Settings Enhance Substance Abuse Recovery,* 96 American Journal of Public Health (10), (2006), at 1727-1729.

A cost-benefit analysis regarding residing in Oxford Houses found:

> While treatment costs were roughly $3000 higher for the OH group, benefits differed substantially between groups. Relative to usual care, OH enrollees exhibited a mean net benefit of $29,022 per person. The result suggests that the additional costs associated with OH treatment, roughly $3000, are returned nearly tenfold in the form of reduced criminal activity, incarceration, and drug and alcohol use as well as increases in earning from employment... even under the most conservative assumption, we find a statistically significant and economically meaningful net benefit to Oxford House of $17,800 per enrollee over two years.[6]

Additionally, a study in California which focused on recovery residences in Sacramento County and Berkley found:

- Residents at six months were sixteen times more likely to report being abstinent;
- Residents at twelve months were fifteen times more likely to report being abstinent; and
- Residents at eighteen months were six times more likely to report being abstinent.[7]

The Department of Children and Families (DCF) recently conducted a study of recovery residences in Florida. DCF sought public comment relating to community concern for recovery residences. Three common concerns for the recovery residences were the safety of the residents, safety of the neighborhoods and lack of governmental oversight.[8]

Participants at public meetings raised the following concerns:

- Residents being evicted with little or no notice;
- Drug testing might be a necessary part of compliance monitoring;
- Unscrupulous landlords, including an alleged sexual offender who was running a woman's program;
- A recovery residence owned by a bar owner and attached to the bar;
- Residents dying in recovery residences;
- Lack of regulation and harm to neighborhoods;
- Whether state agencies have the resources to enforce regulations and adequately regulate these homes;
- Land use problems, and nuisance issues caused by visitors at recovery residences, including issues with trash, noise, fights, petty crimes, substandard maintenance, and parking;
- Mismanagement of resident moneys or medication;
- Treatment providers that will refer people to any recovery residence;
- Lack of security at recovery residences and abuse of residents;
- The need for background checks of recovery residence staff;
- The number of residents living in some recovery residences and the living conditions in these recovery residences;
- Activities going on in recovery residences that require adherence to medical standards and that treatment services may be provided to clients in recovery residences. This included acupuncture and urine tests;
- Houses being advertised as treatment facilities and marketed as the entry point for treatment rather than as a supportive service for individuals who are exiting treatment;
- False advertising;

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[6] A. Lo Sasso, E. Byro, L. Jason, J. Ferrari, and B. Olson, *Benefits and Costs Associated with Mutual-Help Community-Based Recovery Homes: The Oxford House Model*, 35 Evaluation and Program Planning (1), (2012).
[7] D. Polcin, R. Korcha, J. Bond, and G. Galloway, *Sober Living Houses for Alcohol and Drug Dependence: 18-Month Outcome*, 38 Journal of Substance Abuse Treatment, 356-365 (2010).
[8] *Recovery Residence Report, supra* footnote 4.

- Medical tourism;
- The allegation that medical providers capable of ordering medical tests, and billing insurance companies were doing so unlawfully;
- Lack of uniformity in standards; and
- Alleged patient brokering, in violation of Florida Statutes.[9]

Federal Law

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities.[10] The ADA requires broad interpretation of the term "disability" so as to include as many individuals as possible under the definition.[11] The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities.[12] Disability also includes individuals who have a record of such impairment, or are regarded as having such impairment.[13] The phrase "physical or mental impairment" includes, among others[14], drug addiction and alcoholism.[15] However, this only applies to individuals in recovery as ADA protections are not extended to individuals who are actively abusing substances.[16]

Fair Housing Amendment Act

The Fair Housing Amendment Acts of 1988 (FHA) prohibits housing discrimination based upon an individual's handicap.[17] A person is considered to have a handicap if he or she has a physical or mental impairment which substantially limits one or more of his or her major life activities.[18] This includes individuals who have a record of such impairment, or are regarded as having such impairment.[19] Drug or alcohol addiction are considered to be handicaps under the FHA.[20] However, current users of illegal controlled substances and persons convicted for illegal manufacture or distribution of a controlled substance are not considered handicapped under the FHA.

Case Law

An individual in recovery from a drug addiction or alcoholism is provided protection from discrimination under the ADA and FHA. As a protected class, federal courts have held that mandatory conditions

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[9] Id.
[10] 42 U.S.C. s. 12101. This includes prohibition against discrimination in employment, State and local government services, public accommodations, commercial facilities, and transportation. U.S. Department of Justice, *Information and Technical Assistance on the Americans with Disabilities Act*, available at http://www.ada.gov/2010_regs.htm (last visited March 14, 2014).
[11] 42 U.S.C. s. 12102.
[12] Id.
[13] Id.
[14] 28 C.F.R. s. 35.104(4)(1)(B)(ii). The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic) and tuberculosis.
[15] 28 C.F.R. s. 35.104(4)(1)(B)(ii).
[16] 28 C.F.R. s. 35.131.
[17] 42 U.S.C. § 3604. Similar protections are also afforded under the Florida Fair Housing Act, s. 760.23, F.S., which provides that it is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of a person residing in or intending to reside in that dwelling after it is sold, rented, or made available. The statute provides that "discrimination" is defined to include a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
[18] 42 U.S.C. § 3602(h).
[19] Id.
[20] *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179, 1182 (E.D.N.Y. 1993).

placed on housing for people in recovery from either state or sub-state entities, such as ordinances, licenses or conditional use permits, may in application be overbroad and result in violations of the FHA and ADA.[21] Additionally, regulations which require registry of housing for protected classes, including recovery residences, have been invalidated by federal courts.[22] Further, federal courts have enjoined state action that is predicated on discriminatory local government decisions.[23]

State and local governments have the authority to enact regulations, including housing restrictions, which serve to protect the health and safety of the community.[24] However, this authority may not be used as a guise to impose additional restrictions on protected classes under the FHA.[25] Further, these

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[21] *Recovery Residence Report, supra* footnote 4. *Jeffrey O. v. City of Boca* Raton, 511 F. Supp. 2d 1339, (Court invalidated local zoning and density restrictions as being discriminatory to individuals in recovery); *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179 (Court held that city singled out plaintiffs for zoning enforcement and inspections, on the basis of disability, plaintiff demonstrated city was ignoring zoning violations from people without disabilities); *Marbrunak v. City of Stow, OH.*, 947 F. 2d 43, (6th Cir. 1992) (Court held conditional use permit requiring health and safety protections was an onerous burden); *U.S. v. City of Baltimore, MD*, 845 F. Supp. 2d. 640 (D. Md. 2012) (Court held that conditional ordinance was overbroad and discriminatory); *Children's Alliance v. City of Bellevue*, 950 F. Supp. 1491, (W.D. Wash. 1997) (Court held zoning scheme establishing classes of facilities was overbroad, and created an undue burden on a protected class); *Oxford House-Evergreen*, 769 F. Supp. 1329, (Court held that refusal to issue permit was based on opposition of neighbors, not on protection of health and safety as claimed); *Potomac Group Home, Inc.*, 823 F. Supp. 1285, (Court held that county requirement for evaluation of program offered at facility at public board. At review board, decisions were based on non-programmatic factors, such as neighbor concerns. Further to this, the court held that the requirement to notify neighboring property and enumerated civic organizations violated the FHA).

[22] *Recovery Residence Report, supra* footnote 6. *Nevada Fair Housing Center, Inc., v. Clark County, et. al.*, 565 F. Supp. 2d 1178, (D. Nev. 2008) (Invalidating state statute requiring Nevada State Health Department to operate a registry of group homes); *See, Human Resource Research and Management Group*, 687 F. Supp. 2d 237, (Court held that defendant-city failed to show that the requirement of registration, inspection and background checks was narrowly tailored to support a legitimate government interest); *Community Housing Trust et. al., v. Department of Consumer and Regulatory Affairs et. al.*, 257 F. Supp. 2d 208, (D.C. Cir. 2003) (Court held that the zoning administrators classification of plaintiff-facility, requiring a certificate of occupancy rose to discriminatory practice under FHA). *See*, e.g., *City of Edmonds v. Oxford House et. al.*, 574 U.S. 725 (1995) (City's restriction on composition of family violated FHAA); *Safe Haven Sober Houses LLC, et. al., v. City of Boston, et. al.*, 517 F. Supp. 2d 557, (D. Mass. 2007); *United States v. City of Chicago Heights*, 161 F. Supp. 2d 819, (N.D. Ill. 2001)(City violated FHA by requiring inspection for protected class housing that was not narrowly tailored to the protection of disabled); *Human Resource Research and Management Group*, 687 F. Supp. 2d 237, (Court held that the city's purported interest in the number of facilities, in relation to the zoning plan, was not a legitimate government interest. Further to this, the court found that there was insufficient evidence to justify action by the city in relation to the protection of this class. The city also failed to justify the requirement for a 24 hour staff member, certified by the New York State Office of Alcoholism and Substance Abuse Services).

[23] *Recovery Residence Report, supra* footnote 4. *See e.g., Larkin v. State of Mich.* 883 F. Supp. 172, (E.D. Mich. 1994), judgment aff'd 89 F. 3 d 285, (6th Cir. 1996) (Court held there was no rational basis for denial of license on the basis of dispersal requirement, and local government's refusal to permit. The court did find, however, that the city was not a party to the law suit because the state statute did not mandate a variance); *Arc of New Jersey, Inc., v. State of N.J.* 950 F. Supp. 637, D.N.J. 1996) (Court held that municipal land use law, including conditional use, spacing and ceiling quotas violated FHA); *North Shore-Chicago Rehabilitation Inc. v. Village of Skokie*, 827 F. Supp. 497, (N.D. Ill. 1993) (Court held that municipalities could not rely on the absence of a state licensing scheme to deny an occupancy permit); *Easter Seal Soc. of New Jersey, Inc. v. Township of North Bergen*, 798 F. Supp. 228 (D.N.J. 1992) (Court held that city denial of permit on the basis of failure to obtain state license was due to the city's discriminatory enforcement of zoning enforcement); *Ardmore, Inc. v. City of Akron*, Ohio, 1990 WL 385236 (N.D. Ohio 1990) (Court held granted a preliminary injunction against the enforcement of an ordinance requiring conditional use permit, even though it was applied to everyone, because Congress intended to protect the rights of disabled individuals to obtain housing).

[24] 42 U.S.C. s. 3604(f)(9).

[25] *Recovery Residence Report, supra* footnote 4. *Bangerter v. Orem City Corp.*, 46 F.3d 1491, (10th Cir. 1995) (Any requirements placed on housing for a protected class based on the protection of the class must be tailored to needs or abilities associated with particular kinds of disabilities, and must have a necessary correlation to the actual abilities of the persons upon whom they are imposed); *Association for Advancement of the Mentally Handicapped, Inc. v. City of Elizabeth*, 876 F. Supp. 614, (D.N.J. 1994) (Court held state and local governments have the authority to protect safety and health, but that authority may be used to restrict the ability of protected classes to live in the community); *Pulcinella v. Ridley Tp.*, 822 F. Supp. 204,822 F. Supp. 204, (Special conditions may not be imposed under the pretext of health and safety concerns).

regulations must not single out housing for disabled individuals and place requirements which are different and unique from the requirements for housing for the general population.[26] Instead, the FHA and ADA require that a reasonable accommodation be made when necessary to allow a person with a qualifying disability equal opportunity to use and enjoy a dwelling.[27] The governmental entity bears the burden of proving through objective evidence that a regulation serves to protect the health and safety of the community and is not based upon stereotypes or unsubstantiated inferences.[28]

Effect of Proposed Changes

The bill defines "recovery residence" as a residential dwelling unit or other form of group housing that is offered or advertised through any form, including oral, written, electronic or printed means, by any person or entity to be a residence that provides a peer-supported, alcohol-free and drug-free living environment.

The bill defines "recovery residence administrator" as the person responsible for overall management of the recovery residence, including the supervision of residents and of staff employed by, or volunteering for, the residence.

The bill defines "certified recovery residence" as a recovery residence that holds a valid certificate of compliance or that is actively managed by a certified recovery residence administrator.

The bill creates s. 397.487, F.S., to establish a voluntary certification of recovery residences program. The bill requires DCF to select a credentialing entity to develop and administer the program, and provides for an initial application and subsequent renewal fee of the recovery residence to the credentialing entity. The bill establishes the criteria DCF is to use when selecting a credentialing entity. The bill requires a recovery residence to provide the following documents to the credentialing entity:

- Policy and Procedures Manual;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;

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[26] *Bangerter v. Orem City Corp.*, 46 F.3d 1491, (10th Cir. 1995) (Invalidating and act and ordinance that facially singles out the handicapped, and applies different and unique rules to them); *Human Resource Research and Management Group, Inc. v. County of Suffolk*, 687 F. Supp. 2d 237 (E.D. N.Y. 2010), (It is undisputed that [the ordinance] is discriminatory on its face, in that it imposes restrictions and limitations solely upon a class of disabled individuals); *Potomac Group Home Corp. v. Montgomery County, Md.*, 823 F. Supp. 1285,, (No other county law or regulation imposed any similar requirement on a residence to be occupied by adult persons who do not have disabilities).

[27] *Recovery Residence Report, supra* footnote 4. 42 U.S.C. s. 3604(f)(3)(B); 42 U.S.C. s. 12131, *et. seq.*, 28 C.F.R. s. 35.130(b)(7). To comply with the reasonable accommodation provisions of the ADA, regulations have been promulgated for public entities (defined by 28 C.F.R. s. 35.104). This includes a self-evaluation plan of current policies and procedures and modify as needed (28 C.F.R. s. 35.105). This is subject to the exclusions of 28 C.F.R. s. 35.150. For interpretation by the judiciary, *see, Jeffrey O. v. City of Boca* Raton, 511 F. Supp. 2d 1339, (Court invalidated local ordinance because city failed to make reasonable accommodations for individuals with disabilities); *Oxford House Inc., v. Township of Cherry Hill*, 799 F. Supp. 450, (D.N.J. 1992) (Court held that a reasonable accommodation means changing some rule that is generally applicable to everyone so as to make it less burdensome for a protected class).

[28] *Oconomowoc Residential Programs, Inc., v. City of Milwaukee*, 300 F. 3d 775, (7th Cir. 2002) (Denial for a variance due to purported health and safety concerns for the disabled adults could not be based on blanket stereotypes); *Oxford House-Evergreen v. City of Plainfield*, 769 F. Supp. 1329 (D.N.J. 1991) (Generalized assumptions, subjective fears and speculation are insufficient to prove direct threat to others), *Cason v. Rochester Housing Authority*, 748 F. Supp. 1002, (W.D.N.Y. 1990).

- Code of ethics;
- Proof of insurance;
- Background screening; and
- Proof of satisfactory fire, safety, and health inspections.

The bill requires the credentialing agency to conduct an on-site inspection of the recovery residence prior to the initial certification and then at least once a year for every subsequent renewal period. The bill requires that all employed and volunteer staff of a recovery residence pass a Level II background screening, and that the costs associated with such screenings be the responsibility of the credentialing agency. The bill establishes the requirements for the submission and evaluation of the background screening. The bill requires the credentialing agency to deny certification, and authorizes suspension and revocation of the certification, if the recovery residence:

- Is not in compliance with any provision of this section;
- Has failed to remedy any deficiency identified by the credentialing entity within the time period specified;
- Provided false, misleading or incomplete information to the credentialing entity; and
- Has employed or volunteer staff who are subject to the disqualifying offenses set forth in the Level II background screening statute, unless an exemption has been provided.

The bill establishes that certification automatically terminates if not renewed within one year of the date of issuance. The bill also creates a first degree misdemeanor for any person or entity who advertises that any recovery residence is a "certified recovery residence," unless that recovery residence has obtained certification under this section.

The bill creates s. 397.4871, F.S., to establish a voluntary certification for recovery residence administrators. The bill requires DCF to select a credentialing entity to develop and administer the program. The bill establishes the criteria DCF is to use when selecting a credentialing entity and creating the certification program, and provides for an initial application and subsequent renewal fee of the recovery residence to the credentialing entity. The bill requires that all certified recovery residence administrators pass a Level II background screening, and that costs associated with such screenings be the responsibility of the credentialing entity. The bill establishes the requirements for the submission and evaluation of the background screening. The bill authorizes the credentialing entity to suspend or revoke certification if a certified recovery resident administrator:

- Fails to adhere to the continuing education requirements; or
- Becomes subject to the disqualifying offenses set forth in the Level II background screening statute, unless an exemption has been provided.

The bill creates a first degree misdemeanor for any person or entity who advertises that he or she is a "certified recovery residence administrator," unless he or she has obtained certification under this section.

The bill creates s. 397.4872, F.S., to provide an exemption for disqualifying offenses and create a publication requirement for DCF. The bill authorizes DCF to exempt an individual from disqualifying offenses if it has been at least three years since the individual has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. The exemption is not available to any individual who is a:

- Sexual predator as designated pursuant to s. 775.21, F.S.;
- Career offender pursuant to s. 775.261, F.S.; or
- Sexual offender pursuant to s. 943.0435, F.S., unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354, F.S.

The bill requires credentialing entities to provide a list to DCF no later than April 1, 2015, of all recovery residences or recovery residence administrators which it has certified and hold valid certificates of compliance. DCF in turn must publish these lists on its website. The bill allows a recovery residence or recovery residence administrator to be excluded from the list upon written request to DCF.

The bill amends s. 397.407, F.S., to require, effective October 1, 2015, that a licensed service provider refer a current or discharged patient only to a recovery residence that holds a valid certificate of compliance, is actively managed by a certified recovery residence administrator, or both, or is owned and operated by a licensed service provider.

B. SECTION DIRECTORY:

Section 1: Amends s. 397.311, F.S., relating to definitions for substance abuse services.
Section 2: Creates s. 397.487, F.S., relating to voluntary certification of recovery residences.
Section 3: Creates s. 397.4871, F.S., relating to recovery residence administrator certification.
Section 4: Creates s. 397.4872, F.S., relating to exemption from disqualification and publication.
Section 5: Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill requires DCF to review results for the employed and volunteer staff of recovery residences as a condition of certification, as well as requests for exemption from disqualifying offenses. The department performs similar reviews for providers of substance abuse services. Given the infrastructure for such reviews is currently part of the department's prescribed regulatory procedures, the costs of the bill are anticipated to be insignificant and can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill could result in a negative local jail bed impact because it creates a new misdemeanor for any entity or person who advertises as a "certified recovery residence" or "certified recovery residence administrator", respectively, unless the entity or person has obtained certification under the provisions of the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The fiscal impact to the certification boards and recovery residences or administrators is indeterminate as it is dependent upon the number of individuals and entities that elect to participate in the voluntary certification program. Application fees and renewal fees may not exceed $100 for certification of a recovery residence. Recovery residence certification also requires inspection fees which are to be charged at cost. Application fees for a recovery residence administrator cannot exceed $225 and renewal fees cannot exceed $100.

The bill requires fingerprints to be submitted to the FDLE and FBI as part of the required background screening and provides these costs be covered by the prospective employee or volunteer of the credentialing entity (the cost for a Level II background screen ranges from $38 to $75 depending upon the selected vendor).[29]

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the Healthy Families Subcommittee adopted two amendments to the PCS for HB 479. The amendments set forth the requirements for the submission and evaluation of a Level II background screening for individuals participating in the voluntary certification of recovery residence program and the voluntary certification of recovery residence administrator program. The amendments:

- Require fingerprints to be submitted by DCF or an authorized entity or vendor;
- Require DCF to forward the fingerprints to the Department of Law Enforcement (FDLE) for state processing;
- Require FDLE to forward the fingerprints to the Federal Bureau of Investigation for national processing;
- Establish that the individual is responsible for state and national fingerprint processing fees; and
- Require DCF to determine if the individual meets the certification requirements for background screening.

The bill was reported favorably as a Committee Substitute. This analysis is drafted to the Committee Substitute.

[29] http://www.dcf.state.fl.us/programs/backgroundscreening/map.asp, Department of Children and Families' website, accessed 3/26/2014.

A bill to be entitled

An act relating to substance abuse services; amending s. 397.311, F.S.; providing definitions; conforming a cross-reference; creating s. 397.487, F.S.; providing legislative findings; requiring the Department of Children and Families to create a voluntary certification program for recovery residences; requiring the department to approve credentialing entities to develop and administer the certification program; requiring an approved credentialing entity to establish a process for certifying recovery residences that meet certain qualifications; requiring an approved credentialing entity to establish certain fees; requiring a credentialing entity to conduct onsite inspections of a recovery residence; requiring background screening of employees and volunteers of a recovery residence; providing for denial, suspension, or revocation of certification; providing a criminal penalty for advertising a recovery residence as a "certified recovery residence" unless certified; creating s. 397.4871, F.S.; providing legislative intent; requiring the department to create a voluntary certification program for recovery residence administrators; authorizing the department to approve credentialing entities to develop and administer the certification program; requiring an approved

credentialing entity to establish a process for certifying recovery residence administrators who meet certain qualifications; requiring an approved credentialing entity to establish certain fees; requiring background screening of applicants for recovery residence administrator certification; providing for suspension or revocation of certification; providing a criminal penalty for advertising oneself as a "certified recovery residence administrator" unless certified; creating s. 397.4872, F.S.; providing exemptions from disqualifying offenses; requiring credentialing entities to provide the department with a list of all certified recovery residences and recovery residence administrators by a date certain; requiring the department to publish the list on its website; allowing recovery residences and recovery residence administrators to be excluded from the list; amending s. 397.407, F.S.; authorizing licensed service providers to refer patients to certified recovery residences or recovery residences owned and operated by licensed service providers; defining the term "refer"; amending ss. 212.055, 394.9085, 397.405, 397.416, and 440.102, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Present subsection (32) of section 397.311, Florida Statutes, is amended, subsection (4), subsections (5) through (28), and subsections (29) through (39) are renumbered as subsection (7), subsections (9) through (32), and subsections (35) through (45), respectively, and new subsections (4), (5). (6), (8), (33), and (34) are added to that section, to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(4) "Certificate of compliance" means a certificate that is issued by a credentialing entity to a recovery residence or a recovery residence administrator.

(5) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance or that is actively managed by a certified recovery residence administrator.

(6) "Certified recovery residence administrator" means a recovery residence administrator who holds a valid certificate of compliance.

(8) "Credentialing entity" means a nonprofit organization that develops and administers professional certification programs according to nationally recognized certification and psychometric standards.

(33) "Recovery residence" means a residential dwelling unit, or other form of group housing, that is offered or

advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.

(34) "Recovery residence administrator" means the person responsible for overall management of the recovery residence, including the supervision of residents and staff employed by, or volunteering for, the residence.

(38) ~~(32)~~ "Service component" or "component" means a discrete operational entity within a service provider which is subject to licensing as defined by rule. Service components include prevention, intervention, and clinical treatment described in subsection (22) ~~(18)~~.

Section 2. Section 397.487, Florida Statutes, is created to read:

397.487 Voluntary certification of recovery residences.—

(1) The Legislature finds that a person suffering from addiction has a higher success rate of achieving long-lasting sobriety when given the opportunity to build a stronger foundation by living in a recovery residence after completing treatment. The Legislature further finds that this state and its subdivisions have a legitimate state interest in protecting these persons, who represent a vulnerable consumer population in need of adequate housing. It is the intent of the Legislature to protect persons who reside in a recovery residence.

(2) The department shall approve one or more credentialing entities for the purpose of developing and administering a voluntary certification program for recovery residences. The approved credentialing entity shall:

(a) Establish recovery residence certification requirements.

(b) Establish processes to:

1. Administer the application, certification, recertification, and disciplinary processes.

2. Monitor and inspect a recovery residence and its staff to ensure compliance with certification requirements.

3. Interview and evaluate residents, employees, and volunteer staff on their knowledge and application of certification requirements.

(c) Provide training for owners, managers, and staff.

(d) Develop a code of ethics.

(e) Establish application, inspection, and annual certification renewal fees. The application fee may not exceed $100. The inspection fee shall reflect actual costs for inspections. The annual certification renewal fee may not exceed $100.

(3) A credentialing entity shall require the recovery residence to submit the following documents with the completed application and fee:

(a) A policy and procedures manual containing:

1. Job descriptions for all staff positions.

2. Drug testing procedures and requirements.

3. A prohibition on the premises against alcohol, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed.

4. Policies to support a resident's recovery efforts.

5. A good neighbor policy to address neighborhood concerns and complaints.

(b) Rules for residents.

(c) Copies of all forms provided to residents.

(d) Intake procedures.

(e) Relapse policy.

(f) Fee schedule.

(g) Refund policy.

(h) Eviction procedures and policy.

(i) Code of ethics.

(j) Proof of insurance requirements.

(k) Background screening requirements.

(l) Requirements for proof of satisfactory fire, safety, and health inspections.

(4) A credentialing entity shall conduct an onsite inspection of the recovery residence before issuing a certificate of compliance. Onsite followup monitoring of any certified recovery residence may be conducted by the credentialing entity to determine continuing compliance with certification requirements. Each certified recovery residence

shall be inspected at least once during each certification renewal period to ensure compliance.

(5) A credentialing entity shall require that all employees and volunteer staff of a recovery residence pass a level 2 background screening as provided in s. 435.04. The employee's and volunteer's fingerprints must be submitted by the department, an entity, or a vendor as authorized by s. 943.053(13)(a). The fingerprints shall be forwarded to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward them to the Federal Bureau of Investigation for national processing. Fees for state and national fingerprint processing shall be borne by the employer, employee, or volunteer. The department shall screen background results to determine whether an employee or volunteer meets certification requirements.

(6) A credentialing entity shall issue a certificate of compliance upon approval of the recovery residence's application and inspection. The certification shall automatically terminate if not renewed within 1 year after the date of issuance.

(7) A credentialing entity shall deny a recovery residence's application for certification, and may suspend or revoke a certification, if the recovery residence:

(a) Is not in compliance with any provision of this section;

(b) Has failed to remedy any deficiency identified by the credentialing entity within the time period specified;

(c) Provided false, misleading, or incomplete information to the credentialing entity; or

(d) Has employees or volunteer staff who are subject to the disqualifying offenses set forth in s. 435.04(2), unless an exemption has been provided under s. 397.4872.

(8) It is unlawful for a person to advertise to the public, in any way or by any medium whatsoever, any recovery residence as a "certified recovery residence" unless such recovery residence has first secured a certificate of compliance under this section. A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Section 397.4871, Florida Statutes, is created to read:

397.4871 Recovery residence administrator certification.—

(1) It is the intent of the Legislature that a recovery residence administrator voluntarily earn and maintain certification from a credentialing entity approved by the Department of Children and Families. The Legislature further intends that certification ensure that an administrator has the competencies necessary to appropriately respond to the needs of residents, to maintain residence standards, and to meet residence certification requirements.

(2) The department shall approve one or more credentialing entities for the purpose of developing and administering a

volunteer credentialing program for administrators. The approved credentialing entity shall:

(a) Establish recovery residence administrator core competencies, certification requirements, testing instruments, and recertification requirements according to nationally recognized certification and psychometric standards.

(b) Establish a process to administer the certification application, award, and maintenance processes.

(c) Demonstrate ability to administer:

1. A code of ethics and disciplinary process.

2. Biennial continuing education requirements and annual certification renewal requirements.

3. An education provider program to approve training entities that are qualified to provide precertification training to applicants and continuing education opportunities to certified persons.

(3) A credentialing entity shall establish a certification program that:

(a) Is established according to nationally recognized certification and psychometric standards.

(b) Is directly related to the core competencies.

(c) Establishes minimum requirements in each of the following categories:

1. Training.

2. On-the-job work experience.

3. Supervision.

4. Testing.

5. Biennial continuing education.

(d) Requires adherence to a code of ethics and provides for a disciplinary process that applies to certified persons.

(e) Approves qualified training entities that provide precertification training to applicants and continuing education to certified recovery residence administrators. To avoid a conflict of interest, a credentialing entity or its affiliate may not deliver training to an applicant or continuing education to a certificateholder.

(4) A credentialing entity shall require each applicant to pass a level 2 background screening as provided in s. 435.04. The applicant's fingerprints must be submitted by the department, an entity, or a vendor as authorized by s. 943.053(13)(a). The fingerprints shall be forwarded to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward them to the Federal Bureau of Investigation for national processing. Fees for state and national fingerprint processing shall be borne by the applicant. The department shall screen background results to determine whether an applicant meets certification requirements.

(5) A credentialing entity shall establish application, examination, and certification fees and an annual certification renewal fee. The application, examination, and certification fee may not exceed $225. The annual certification renewal fee may not exceed $100.

(6) The credentialing entity shall issue a certificate of compliance upon approval of a person's application. The certification shall automatically terminate if not renewed within 1 year after the date of issuance.

(7) A person who is subject to the disqualifying offenses set forth in s. 435.04(2) is ineligible to become a certified recovery residency administrator.

(8) A credentialing entity may suspend or revoke the recovery residence administrator's certificate of compliance if the recovery residence administrator:

(a) Fails to adhere to the continuing education requirements; or

(b) Becomes subject to the disqualifying offenses set forth in s. 435.04(2), unless an exemption has been provided under s. 397.4872.

(9) It is unlawful for a person to advertise himself or herself to the public, in any way or by any medium whatsoever, as a "certified recovery residence administrator" unless he or she has first secured a certificate of compliance under this section. A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Section 397.4872, Florida Statutes, is created to read:

397.4872 Exemption from disqualification; publication.—

(1) Individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions shall be submitted in writing to the department and include a justification for the exemption.

(2) The department may exempt a person from ss. 397.487(7)(d) and 397.4871(7) if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. An exemption from the disqualifying offenses may not be given under any circumstances for any person who is a:

(a) Sexual predator pursuant to s. 775.21;

(b) Career offender pursuant to s. 775.261; or

(c) Sexual offender pursuant to s. 943.0435, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

(3) A credentialing entity shall submit a list to the department, no later than April 1, 2015, of all recovery residences or recovery residence administrators whom it has certified and who hold valid certificates of compliance. Thereafter, a credentialing entity shall notify the department within 3 business days when any new recovery residence administrator receives a certificate or when a recovery residence administrator's certificate expires or is terminated. The department shall publish on its website a list of each recovery residence and recovery residence administrator who

holds a valid certificate of compliance. A recovery residence or recovery residence administrator shall be excluded from the list upon written request to the department.

Section 5. Subsections (1) and (5) of section 397.407, Florida Statutes, are amended, and subsection (11) is added to that section, to read:

397.407 Licensure process; fees.—

(1) The department shall establish by rule the licensure process to include fees and categories of licenses. The rule must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s. 397.311(22) ~~397.311(18)~~ which are operated by a licensee. The fees from the licensure of service components are sufficient to cover at least 50 percent of the costs of regulating the service components. The department shall specify by rule a fee range for public and privately funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers. During adoption of the rule governing the licensure process and fees, the department shall carefully consider the potential adverse impact on small, not-for-profit service providers.

(5) The department may issue probationary, regular, and interim licenses. After adopting the rule governing the licensure process and fees, the department shall issue one license for each service component that is operated by a service provider and defined in rule pursuant to s. 397.311(22)

~~397.311(18)~~. The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least 60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

(11) Effective October 1, 2015, a service provider licensed under this part may refer a current or discharged patient only to a recovery residence that holds a valid certificate of compliance as provided in s. 397.487, is actively managed by a certified recovery residence administrator as provided in s. 397.4871, or both, or is owned and operated by a licensed service provider. For purposes of this subsection, the term "refer" means to inform a patient by any means about the name, address, or other details about the recovery residence.

However, this section does not require a licensed service provider to refer any patient to a recovery residence.

Section 6. Paragraph (e) of subsection (5) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or

governed by the county or its agency, authority, or public health trust.

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County Public Health Trust, the Dade County Medical Association, the Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade County. This committee shall nominate between 10 and 14 county citizens for the governing board, agency, or authority. The slate shall be presented to the county commission and the county commission shall confirm the top five to seven nominees, depending on the size of the governing board. Until such time as the governing board, agency, or authority is created, the funds provided for in subparagraph (d)2. shall be placed in a restricted account set aside from other county funds and not

disbursed by the county for any other purpose.

1. The plan shall divide the county into a minimum of four and maximum of six service areas, with no more than one participant hospital per service area. The county public general hospital shall be designated as the provider for one of the service areas. Services shall be provided through participants' primary acute care facilities.

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including primary care, preventive care, hospital emergency room care, and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in s. 397.311(41) ~~397.311(35)~~. Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least one regional referral hospital per service area. The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care to draw down federal funds where appropriate, and require cost containment, including, but not limited to, case management. From the funds specified in subparagraphs (d)1. and 2. for indigent health care services, service providers shall receive reimbursement at a Medicaid rate to be determined by the

439 governing board, agency, or authority created pursuant to this
440 paragraph for the initial emergency room visit, and a per-member
441 per-month fee or capitation for those members enrolled in their
442 service area, as compensation for the services rendered
443 following the initial emergency visit. Except for provisions of
444 emergency services, upon determination of eligibility,
445 enrollment shall be deemed to have occurred at the time services
446 were rendered. The provisions for specific reimbursement of
447 emergency services shall be repealed on July 1, 2001, unless
448 otherwise reenacted by the Legislature. The capitation amount or
449 rate shall be determined prior to program implementation by an
450 independent actuarial consultant. In no event shall such
451 reimbursement rates exceed the Medicaid rate. The plan must also
452 provide that any hospitals owned and operated by government
453 entities on or after the effective date of this act must, as a
454 condition of receiving funds under this subsection, afford
455 public access equal to that provided under s. 286.011 as to any
456 meeting of the governing board, agency, or authority the subject
457 of which is budgeting resources for the retention of charity
458 care, as that term is defined in the rules of the Agency for
459 Health Care Administration. The plan shall also include
460 innovative health care programs that provide cost-effective
461 alternatives to traditional methods of service and delivery
462 funding.
463 3. The plan's benefits shall be made available to all
464 county residents currently eligible to receive health care

services as indigents or medically poor as defined in paragraph (4)(d).

4. Eligible residents who participate in the health care plan shall receive coverage for a period of 12 months or the period extending from the time of enrollment to the end of the current fiscal year, per enrollment period, whichever is less.

5. At the end of each fiscal year, the governing board, agency, or authority shall prepare an audit that reviews the budget of the plan, delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

Section 7. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification services," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(22)(a)4. ~~397.311(18)(a)4.~~, 397.311(22)(a)1. ~~397.311(18)(a)1.~~, and 394.455(26), respectively.

Section 8. Subsection (8) of section 397.405, Florida Statutes, is amended to read:

397.405 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed service components itemized under s. 397.311(22) ~~397.311(18)~~ is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

The exemptions from licensure in this section do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced registered nurse practitioner licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced registered nurse practitioner does not represent to the public that he or she is a licensed service provider and does not provide services to individuals pursuant to part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt

status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(30) ~~397.311(26)~~.

Section 10. Paragraphs (d) and (g) of subsection (1) of section 440.102, Florida Statutes, are amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(d) "Drug rehabilitation program" means a service provider, established pursuant to s. 397.311(39) ~~397.311(33)~~, that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

(g) "Employee assistance program" means an established

program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and followup services for employees who participate in the program or require monitoring after returning to work. If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by service providers pursuant to s. 397.311(39) ~~397.311(33)~~.

Section 11. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 799 Transitional Living Facilities
SPONSOR(S): Magar
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	12 Y, 0 N	Guzzo	Shaw
2) Health Care Appropriations Subcommittee		Clark	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

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

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

Specifically, the bill makes the following changes:

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

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

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Transitional living facilities provide specialized health care services, including, but not limited to, rehabilitative services, community reentry training, aids for independent living, and counseling to spinal-cord-injured persons and head-injured persons.[1] There are currently thirteen transitional living facilities licensed in Florida.[2] The Agency is the licensing authority and one of the regulatory authorities that oversee transitional living facilities pursuant to chapter 408, part II, chapter 400, part V, F.S., and Rule 59A-17, F.A.C. The current licensure fee is $4,588.00 with a $90 per bed fee per biennium.[3]

AHCA governs the physical plant and fiscal management of these facilities and adopts rules, along with DOH, which monitors services for persons with traumatic brain and spinal cord injuries. Investigations concerning allegations of abuse and neglect of children and vulnerable adults are performed by DCF.

Section 400.805, F.S., mandates requirements for transitional living facilities. Section 400.805(2), F.S., provides the licensure requirements and fees for operation of a transitional living facility as well as level 2 background screening requirements for all TLF personnel. Section 400.805(3)(a) requires AHCA, in consultation with DOH, to adopt rules governing the physical plant and the fiscal management of transitional living facilities.

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

According to a news report from Bloomberg, dated January 24, 2012, clients at the Florida Institute for Neurologic Rehabilitation in Wauchula, Florida were abused, neglected and confined. The news report was based on information from 20 current and former clients and their family members, criminal charging documents, civil complaints and advocates for the disabled.[4] In August, 2012, a multi-agency investigation was conducted at the Wauchula facility. As a result of the investigation, it was determined that 50 of the 98 residents reviewed did not have an appropriate diagnosis of spinal-cord injured or head injured.[5]

State agencies involved in the regulation of TLFs strive to maintain a level of coordination sufficient to provide quality care to clients of TLFs. AHCA is responsible for the licensure of TLFs, while DOH monitors services for persons with traumatic brain and spinal cord injuries, and DCF investigates allegations of abuse and neglect of children and vulnerable adults. In working together during the investigations, gaps and deficiencies were discovered in the TLF regulatory structure.

The Brain and Spinal Cord Injury Program (BSCIP) is administered through DOH. Services provided by the BSCIP include:

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[1] Section 400.805(1)(c), F.S.

[2] HB 799, Agency Legislative Bill Analysis, Agency For Health Care Administration, February 7, 2014 (on file with the Health Innovation subcommittee).

[3] *Id.*

[4] Bloomberg, *Abuse of Brain Injured Americans Scandalizes U.S.,* (Jan. 7, 2012) *available at* http://www.bloomberg.com/news/2012-07-24/brain-injured-abuse-at-for-profit-center-scandalizes-u-s-.html (last visited March 22, 2014).

[5] Agency for Health Care Administration, Statement of Deficiencies and Plan of Correction (August 3, 2012), available at http://www.upps.ahca.myflorida.com/dm_web/(s(ner1fpywccezpxoyuqpyogfn))/doc_results.aspx?file_number=35930769&provider_type=TRANSITIONAL+LIVING+FACILITY++&client_code=34&provider_name=FLORIDA+INSTITUTE+FOR+NEUROLOGIC+REHAB%2c+INC&lic_id=28343 (last visited March 22, 2014).

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

Section 381.76, F.S., provides that a participant in the BSCIP must be a legal Florida resident who has sustained a brain or spinal cord injury. For purposes of the BSCIP, a brain or spinal cord injury means "a lesion to the spinal cord or cauda equina, resulting from external trauma."[6] However, s. 400.805 (1), F.S., relating to TLFs, provides that residents of a TLF must be "spinal-cord-injured persons or head-injured persons." These inconsistent definitions have led to uncertainty as to whether or not TLFs can provide services to individuals who are not participants in the BSCIP or to individuals who have a brain or spinal cord injury that was not the result of external trauma.

The Brain and Spinal Cord Injury Advisory Council has rights to entry and inspection of transitional living facilities granted under section 400.805(4), F.S.

Effect of Proposed Changes

The bill consolidates the oversight of care and services of clients of TLFs under specific licensure requirements of AHCA and promotes coordination between AHCA, DOH, APD, DCF, and the Brain and Spinal Cord Injury Program.

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

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

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

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

[6] Section 381.745(2), F.S.

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

Admission, Transfer and Discharge Requirements

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

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

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

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

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

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

- Presents a significant risk of infection to other clients or personnel;
    - In addition the bill requires a health care practitioner to provide documentation that the person is free of apparent signs and symptoms of communicable disease.
- Is a danger to self or others as determined by a physician, PA, ARNP, or mental health practitioner, unless the facility provides adequate staffing and support to ensure patient safety;
- Is bedridden; or
- Requires 24-hour nursing supervision.

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

The bill requires TLFs to develop a discharge plan for each client prior to or upon admission to the facility. The discharge plan is required to identify intended discharge sites and possible alternate discharge sites. For each discharge site identified, the discharge plan must identify the skills,

behaviors, and other conditions that the client must achieve to be eligible for discharge. The bill requires discharge plans to be reviewed and updated at least once a month.

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

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

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

Client Treatment Plans and Client Services

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

Each comprehensive treatment plan must include the following:

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

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

The bill requires licensees to employ available qualified professional staff to carry out the various professional interventions in accordance with the goals and objectives of the individual program plan. Each client must receive a continuous treatment program that includes appropriate, consistent implementation of a program of specialized and general training, treatment, and services.

Provider Responsibilities

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

- Lives in a safe environment;
- Is treated with respect, recognition of personal dignity and privacy;
- Retains use of their own clothes and personal property;
- Has unrestricted private communications which includes mail, telephone and visitors;
- Participates in community services and activities;

- Manages their financial affairs unless the client or the client's representative authorizes the administrator of the facility to provide safekeeping for funds;
- Has reasonable opportunity for regular exercise and be outdoors more than once per week.
- Exercises civil and religious liberties;
- Has adequate access and appropriate health care services;
- Has the opportunity to present grievances and recommend changes in policies, procedures and services;
- Is enabled to have a representative participate in the process of treatment for the client;
- Receives prompt responses from the facility to communications from family and friends;
- Have visits by individuals with a relationship to the client and any reasonable hour; and
- Has the opportunity to leave the facility to visit, take trips or vacations.

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

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

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

Administration of Medication

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

Assistance with Medication

The bill creates s. 400.9977, F.S., which provides that notwithstanding the Nurse Practice Act, Part I of chapter 464, F.S., unlicensed direct care services staff who provide client services under chapter 400 or 429, F.S., may administer prescribed, prepackaged and premeasured medications under the supervision of a registered nurse. The medication administration training for unlicensed direct care services staff must be conducted by a physician, pharmacist or registered nurse.

The bill requires TLFs that allow unlicensed direct care services staff to administer medications to:

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

Client Protection

The bill creates s. 400.9977, F.S., to establish provisions relating to the protection of clients from abuse, neglect, mistreatment, and exploitation. The bill provides that the facility is responsible for developing and implementing policies and procedures for screening and training employees, protection of clients and for the prevention, identification, investigation, and reporting of abuse, neglect, mistreatment, and exploitation. The facility is also required to identify clients whose history renders them at risk for abusing other clients. Further, the bill requires facilities to implement procedures to:

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

The facility must identify, correct, and intervene in situations in which abuse, neglect, mistreatment or exploitation is likely to occur, including, the physical environment that makes abuse and/or neglect more likely to occur, such as secluded areas.

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

Restraints and Seclusion

The bill creates s. 400.9979, F.S., to require physical and chemical restraints to be, ordered and documented, by the client's physician, PA, or ARNP with the consent of the client or client's representative. The bill provides that the use of chemical restraints is limited to the prescribed dosage of medications by the client's physician, PA, or ARNP. The use of physical restraint and seclusion may only be used as authorized by the facility's written physical restraint and seclusion policies. Facilities are required to notify the parent or guardian within 24-hours of the use of restraint or seclusion.

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

Clients receiving medications that can serve as a restraint must be evaluated by their physician, PA, or ARNP at least monthly to assess the:

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

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

The bill authorizes AHCA to adopt rules for standards and procedures relating to:

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

Background Screening and Administration/Management

Background Screening and Administration/Management

The bill creates s. 400.998, F.S., to require all facility personnel to complete a level 2 background screening as required in s. 408.809(1)(e), F.S. pursuant to Chapter 435. The facility must maintain personnel records which contain the staff's background screening, job description, documentation of compliance with training requirements, and a copy of all licenses or certifications held by staff who perform services for which licensure or certification is required. The record must also include a copy of all job performance evaluations.

The bill requires the facility to:

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

Property and Personal Affairs of Clients

The bill creates s. 400.9981, F.S., to require facilities to give clients options of using their own personal belongings, and to choose their own roommate whenever possible. The bill provides that the admission of a client to a facility, and their presence therein, shall not confer on a licensee, administrator, employee, or representative any authority to manage, use, or dispose of any property of

the client. The licensee, administrator employee or representative may not act as the client's guardian, trustee, payee for social security or other benefits. The licensee, administrator, employee or representative may act as the power of attorney for a client if the licensee has filed a surety bond with AHCA in an amount equal to twice the average monthly income of the client. When the power of attorney is granted to the licensee, administrator, staff, or representative, they must notify the client on a monthly basis of any transactions made on their behalf and a copy of such statement given to the client must be retained in the client's file and be available for inspection.

The bill requires the facility to, upon consent from the client, provide for the safekeeping of personal effects. The personal effects may not be in excess of $1,000 and funds of the client may not be in excess of $500 in cash, and the facility must keep complete and accurate records of all funds and personal effects received.

The bill provides that for any funds or other property belonging to or due to a client, such funds shall be trust funds which shall be kept separate from the funds and property of the licensee or shall be specifically credited to the client. At least once every month, unless upon order of a court of competent jurisdiction, the facility must furnish the client and the client's representative a complete and verified statement of all funds and other property, detailing the amount and items received, together with their sources and disposition.

The bill provides that any licensee, administrator, or staff, or representative thereof, who is granted power of attorney for any client of the facility and who misuses or misappropriates funds obtained through this power commits a felony of the third degree.

In the event of the death of a client, the facility must return all refunds, funds, and property held in trust to the client's personal representative. If the client has no spouse or adult next of kin or such person cannot be located, funds due the client must 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 bill authorizes AHCA to adopt rules to clarify terms and specify procedures and documentation necessary to administer the provisions relating to the proper management of clients' funds and personal property and the execution of surety bonds.

Rules Establishing Standards

The bill creates s. 400.9981, F.S., to authorize AHCA to publish and enforce rules, which include criteria to ensure reasonable and consistent quality of care and client safety. Further, the bill authorizes AHCA to adopt and enforce rules which must include reasonable and fair criteria with respect to the:

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

Penalties and Violations

The bill creates s. 400.9983, F.S., to authorize AHCA to adopt rules to enforce penalties, and require AHCA to classify each violation according to the nature of the violation and the gravity of its probable effect on the client. The classification of violations, as defined in s. 408.813, F.S., must be included on the written notice of the violation in the following categories:

- Class "I" violations will result in issuance of a citation regardless of correction and impose an administrative fine up to $10,000 for a widespread violation.

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

The bill allows TLFs to avoid imposition of a fine for a class IV violation, if the deficiency is corrected within a specified period of time.

Receivership Proceedings

The bill creates s. 400.9984, F.S., to authorize AHCA access the provisions of s. 429.22, F.S., regarding receivership proceedings for TLFs. As a result, AHCA is authorized to petition a court for the appointment of a receiver when any of the following conditions exist:

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

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

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

Interagency Communication

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

B. SECTION DIRECTORY:

Section 1: Creates ss. 400.997 through 400.9985, F.S., as part XI of chapter 400, to be entitled "Transitional Living Facilities.
Section 2: Creates s. 400.9978, F.S., relating to protection of clients from abuse, neglect, mistreatment, and exploitation.
Section 3: Repeals s. 400.805, F.S., relating to transitional living facilities.
Section 4: Redesignates the title of part V of chapter 400, F.S., as "Intermediate Care Facilities".
Section 5: Amends s. 381.745, F.S., relating to definitions.
Section 6: Amends s. 381.75, F.S., relating to duties and responsibilities of the department.
Section 7: Amends s. 381.78, F.S., relating to the advisory council on brain and spinal cord injuries.
Section 8: Amends s. 400.93, F.S., relating to licensure required; exemptions; unlawful act; penalties.
Section 9: Amends s. 408.802, F.S., relating to applicability.

Section 10: Amends s. 408.820, F.S., relating to exemptions.
Section 11: Provides that effective July1, 2015, a TLF licensed before the effective date of this act pursuant to s. 400.805, F.S., must be licensed under part XI of chapter 400, F.S., as created by this act.
Section 12: Provides an effective date of July1, 2014, except as otherwise expressly provided in this act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The AHCA is responsible for the licensing of TLFs. The current licensure fee is $4,588.00 with a $90 per bed fee per biennium. There are currently 13 facilities located within the state. The amount of revenue collected for licensure is expected to remain constant. Additionally, the AHCA is responsible for the regulation and collection of administrative fines for TLFs. Based upon historical experience, there is expected to be minimal to no revenues associated with administrative fine collection. Finally, the bill requires that personal property funds of deceased residents that are not disbursed pursuant to Florida Probate Code within two years after death are to be deposited within AHCA's Health Care Trust Fund. The amount of funds expected to be deposited within AHCA's Health Care Trust Fund is indeterminate, but likely insignificant.

2. Expenditures:

The bill requires AHCA, DOH, APD, and DCF to develop electronic systems to share relevant information pertaining to regulation of TLFs. The cost of developing this system is estimated to be insignificant and can be absorbed within each department's existing resources. Additionally, AHCA's current staff that is responsible for the regulation of TLFs will continue to provide these functions in the future and will not require additional staff or resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to transitional living facilities; creating part XI of chapter 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 to transitional living facilities; revising the title of part V of chapter 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 effective dates.

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

Section 1. 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 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.

(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 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 provided 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 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 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, 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 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 chapter 400 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.

Section 2. Section 400.9978, Florida Statutes, is created to read:

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 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 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 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 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 care. The licensee must employ enough qualified professional staff to carry out and monitor interventions in accordance with the stated goals and objectives of each comprehensive treatment plan.

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

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

(e) The preparation and annual update of a comprehensive

emergency management plan in consultation with the Division of Emergency Management. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including provision of emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of clients and transfer of records; communication with families; and responses to family inquiries.

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

(1) Class "I" violations are defined in s. 408.813. The agency shall issue a citation regardless of correction and impose an administrative fine of $5,000 for an isolated violation, $7,500 for a patterned violation, or $10,000 for a widespread violation. Violations may be identified, and a fine 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 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 3. Section 400.805, Florida Statutes, is repealed.

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

Section 5. 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 6. 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 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 7. 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 8. 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 9. 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 XI ~~V~~ of chapter 400.

Section 10. 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 11. 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.

Section 12. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1055 Onsite Sewage Treatment and Disposal Systems
SPONSOR(S): Agriculture & Natural Resources Subcommittee and Mayfield
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1306

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Renner	Blalock
2) Health Care Appropriations Subcommittee		Rodriguez	Pridgeon
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law requires the Department of Health (DOH) to regulate onsite sewage treatment disposal systems (OSTDSs), which include septic tanks. Generally, OSTDSs are used to treat and dispose of relatively small volumes of wastewater from an individual home or business. Central sewer systems and treatment facilities are used to dispose of and treat wastewater from multiple homes and businesses. The sewers collect municipal wastewater from homes, businesses, and industries and deliver it to facilities for treatment before it is discharged to waterbodies or land, or reused.

An alternative to OSTDSs and central sewer systems are combined systems where the septic tank is connected to the sewer system and a pump moves water from the septic tank into the sewer system. It is generally less expensive for a home or business to install these combined systems compared to connecting directly to a central sewer system. Once a home or business installs the combined system, the existing drainfield will usually remain as a part of a backup system in case there is a power outage that causes the pump to stop pumping wastewater from the septic tank into the sewer system.

Current law also requires a home or business that connects directly to a central sewer system to remove the abandoned septic tank and drainfield. DOH and the Department of Environmental Protection (DEP) currently have the authority to permit and install combined systems. However, there are some uncertainties in the law as to whether the existing drainfield is considered abandoned and must be removed once the combined system is installed even though the drainfield is technically still being used as a backup to the combined system.

The bill provides that in the event DEP, or its designee, approves the use of all or a portion of an existing OSTDS and disposal system as an integral part of a sanitary sewer system, then, as part of the approved sanitary sewer system, the existing OSTDS, including the drainfield, is not required to be abandoned.

The bill has no fiscal impact on state government. The bill has a potential positive fiscal impact on local government-owned utilities and on the private sector.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Onsite systems

Generally, onsite sewage treatment and disposal systems (OSTDSs) are used to treat and dispose of relatively small volumes of wastewater. An OSTDS is a system that contains:

- A standard subsurface, filled, or mound drainfield system;
- An aerobic treatment unit;
- A graywater system tank;
- A laundry wastewater system tank;
- A septic tank;
- A grease interceptor;
- A pump tank;
- A solids or effluent pump;
- A waterless, incinerating, or organic waste-composting toilet; or
- A sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system.[1]

The term also includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works permitted by the Department of Environmental Protection (DEP).[2]

A septic tank is a watertight receptacle constructed to promote separation of solid and liquid components of wastewater, to provide limited digestion of organic matter, to store solids, and to allow clarified liquid to discharge for further treatment and disposal into a drainfield.[3] A drainfield is defined as a system of open-jointed or perforated piping, approved alternative distribution units, or other treatment facilities designed to distribute effluent for filtration, oxidation, and absorption by the soil within the zone of aeration.[4]

Central Wastewater Collection

A central wastewater collection system consists of central sewers that collect municipal wastewater from homes, businesses, and industries and deliver it to a wastewater treatment facility before it is discharged to waterbodies or land, or reused.[5] Conventional wastewater collection systems transport sewage from homes or other sources by gravity flow through buried piping systems to a central treatment facility.[6]

An alternative to conventional wastewater collection systems is pressure sewers.[7] Pressure sewers differ from conventional gravity collection systems because they break down large solids in the

[1] Section 381.0065(2)(k), F.S.
[2] Section 381.0065(2)(k), F.S.
[3] Chapter 64E-6.002(49), F.A.C.
[4] Chapter 64E-6.002(18), F.A.C.
[5] Environmental Protection Agency, Primer for Municipal Wastewater Treatment Systems, September 2004, available at: water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf
[6] Environmental Protection Agency Wastewater Technology Fact Sheet. On file with Agriculture & Natural Resources Subcommittee staff.
[7] *Id.*

pumping station before they are transported through the collection system.[8] These are typically used in areas that have high groundwater that could seep into the sewer, increasing the amount of wastewater to be treated.[9]

One type of pressure sewer system is the septic tank effluent pump system, also known as a combined system. In these combined systems, wastewater flows into a conventional septic tank to capture solids. The liquid effluent flows to a holding tank containing a pump and control device. The effluent is then pumped and transferred for treatment.[10] According to the Environmental Protection Agency (EPA), retrofitting existing septic tanks in areas served by the combination of septic tanks and drainfield systems could present an opportunity for cost savings. However, a large number must be replaced or expanded over the life of the system because of insufficient capacity, deterioration of concrete tanks, or leaks.[11]

State Regulation for OSTDS

Chapter 381, F.S., requires the Department of Health (DOH) to regulate OSTDSs. Pursuant to s. 381.0065(3), F.S., DOH must:

- Adopt rules;
- Perform application reviews and site evaluations, issue permits, and conduct inspections and complaint investigations relating to OSTDSs;
- Develop a comprehensive program to ensure that OSTDSs are sized, designed, constructed, installed, repaired, modified, abandoned, used, operated, and maintained to prevent groundwater contamination and surface water contamination and to preserve the public health;
- Grant variances in hardship cases;
- Permit the use of a limited number of innovative systems for a specific period when there is compelling evidence that the system will function properly and reliably;
- Issue annual operating permits;
- Establish and collect fees for services related to OSTDSs;
- Conduct enforcement activities;
- Provide or conduct education and training of DOH personnel, service providers, and the public regarding OSTDSs;
- Supervise research on, demonstration of, and training on the performance, environmental impact, and public health impact of OSTDSs in Florida;
- Approve the installation of individual graywater disposal systems in which blackwater is treated by a central sewerage system;
- Regulate and permit the sanitation, handling, treatment, storage, reuse, and disposal of byproducts from any OSTDS;
- Permit and inspect portable or temporary toilet services and holding tanks; and
- Regulate and permit maintenance entities for performance-based treatment systems and aerobic treatment unit systems.

Section 381.0065(4), F.S., prohibits any person from constructing, installing, modifying, abandoning, or repairing an OSTDS without first obtaining a DOH permit. DOH is prohibited from making the issuance of the permits contingent upon prior approval by DEP, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053, F.S., must be contingent upon receipt of any required coastal construction control line permit from DEP.

[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] *Id.*

DOH does not permit the use of an OSTDS in the following instances, unless DOH grants a variance from the prohibition:

- The estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd);[12]
- The estimated commercial sewage flow from the establishment is over 5,000 gpd;[13]
- There is a likelihood that the system will receive toxic, hazardous, or industrial wastes;[14]
- A sewer system is available;[15] or
- Any system or flow from the establishment is currently regulated by DEP.[16]

In 1983, DEP entered into an Interagency Agreement with DOH to coordinate the regulation of onsite sewage systems, septage and residuals, and marina pumpout facilities. This agreement sets up procedures for addressing interagency issues related to OSTDSs and central wastewater disposal and treatment facilities.[17]

Connection of Existing OSTDSs to a Central Sewer System

Section 381.00655(1), F.S., requires the owner of a properly functioning OSTDS to connect the OSTDS or the building's plumbing to an available publicly owned or investor-owned sewer system within 365 days after written notification by the owner of the publicly owned or investor-owned sewer system that the system is available for connection. An "available" publicly owned or investor-owned sewer system is a system capable of being connected to the plumbing of an establishment or residence that is not under a DEP moratorium and has adequate permitted capacity to accept the sewage to be generated by the establishment or residence.[18] A publicly owned or investor-owned sewer system is authorized to waive the requirement of mandatory connection if it determines that such connection is not in the public interest due to public health considerations. In addition, a variance can also be granted to an owner of a performance-based OSTDS permitted by DOH as long as the OSTDS is functioning properly and satisfies the conditions of the operating permit.

Chapter 64E-6.011, F.A.C., requires the OSTDS to be abandoned after being connected to a sewer system and further use of the OSTDS is prohibited. Once abandoned, the septic tank and drainfield must be removed. When a home or business installs a combined system, the existing drainfield will usually remain as a part of a backup system in case there is a power outage that causes the pump to stop pumping wastewater from the septic tank into the sewer system. DOH and DEP currently have the authority to permit and install combined systems. However, there are some uncertainties in the law as to whether the existing drainfield is considered abandoned, and must be removed, once the combined system is installed even though the drainfield is technically still being used as a backup to the combined system.

Effect of Proposed Changes

The bill amends s. 381.00655(1), F.S., to provide that in the event DEP, or its designee, approves the use of all or a portion of an existing OSTDS and disposal system as an integral part of a sanitary sewer system, then, as part of the approved sanitary sewer system, the existing OSTDS, including the drainfield, is not required to be abandoned.

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[12] Chapter 64E-6.008, F.A.C. DEP issues permits for systems that discharge more than 10,000 gpd. *See* Chapter 62-4, F.A.C.
[13] DEP website on Septic Systems, available at http://www.dep.state.fl.us/water/wastewater/dom/septic.htm
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] Section 381.0065(2)(a), F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.00655, F.S., relating to requirements for the connection of existing onsite sewage treatment and disposal systems to central sewerage systems.

Section 2. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill has a potential positive fiscal impact on local government-owned utilities that, under certain circumstances, will not have to put in sewer pipes to connect to properties that currently have septic tanks.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill has a positive fiscal impact on the private sector. If DEP approves the use of all or portion of the existing OSTDS as an integral part of a sewer system, then the existing OSTDS is not required to be abandoned. Therefore, the costs associated with abandonment including but not limited to the removal of the existing OSTDS need not be borne by an applicable business or residential property. Additionally, this bill has a potential positive fiscal impact on investor-owned sewer system that, under certain circumstances, will not have to put in sewer pipes to connect to properties that currently have septic tanks.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULEMAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the Agriculture & Natural Resources Subcommittee adopted one strike-all amendment and reported the bill favorably with a committee substitute. The strike-all amendment deletes everything related to combined systems in s. 381.0065, F.S. The amendment amends s. 381.00655, F.S., to specify that an existing OSTDS, including the drainfield, is not required to be abandoned if DEP, or DEP's designee, approves the use of all or a portion of the existing OSTDS as an integral part of a sanitary sewer system.

A bill to be entitled

An act relating to onsite sewage treatment and disposal systems; amending s. 381.00655, F.S.; providing a condition under which connection of an existing onsite sewage treatment and disposal system to a central sewerage system does not require the onsite system to be abandoned; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (1) of section 381.00655, Florida Statutes, to read:

381.00655 Connection of existing onsite sewage treatment and disposal systems to central sewerage system; requirements.—

(1)

(c) An existing onsite sewage treatment and disposal system, including the drainfield, need not be required to be abandoned if the Department of Environmental Protection or the department's designee approves the use of all or a portion of the existing onsite sewage treatment and disposal system as an integral part of a sanitary sewer system.

Section 2. This act shall take effect July 1, 2014.