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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2015	.	
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The Committee on Rules (Soto) recommended the following:

1           **Senate Amendment to Amendment (395678) (with title**  
2 **amendment)**

3  
4           Delete lines 296 - 731  
5 and insert:

6  
7 This subsection does not apply to a board-eligible or board-  
8 certified anesthesiologist, physiatrist, rheumatologist, or  
9 neurologist, or to a board-certified physician who has surgical  
10 privileges at a hospital or ambulatory surgery center and  
11 primarily provides surgical services. This subsection does not



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12 apply to a board-eligible or board-certified medical specialist  
13 who has also completed a fellowship in pain medicine approved by  
14 the Accreditation Council for Graduate Medical Education or the  
15 American Osteopathic Association, or who is board eligible or  
16 board certified in pain medicine by the American Board of Pain  
17 Medicine, the American Board of Interventional Pain Physicians,  
18 the American Association of Physician Specialists, or a board  
19 approved by the American Board of Medical Specialties or the  
20 American Osteopathic Association and performs interventional  
21 pain procedures of the type routinely billed using surgical  
22 codes. This subsection does not apply to a registrant, advanced  
23 registered nurse practitioner, or physician assistant who  
24 prescribes medically necessary controlled substances for a  
25 patient during an inpatient stay in a hospital licensed under  
26 chapter 395.

27 Section 9. Section 458.326, Florida Statutes, is amended to  
28 read:

29 458.326 Intractable pain; authorized treatment;  
30 interventional pain medicine; unauthorized practice.-

31 (1) (a) For the purposes of this subsection ~~section~~, the  
32 term "intractable pain" means pain for which, in the generally  
33 accepted course of medical practice, the cause cannot be removed  
34 and otherwise treated.

35 (b) ~~(2)~~ Intractable pain must be diagnosed by a physician  
36 licensed under this chapter and qualified by experience to  
37 render such diagnosis.

38 (c) ~~(3)~~ Notwithstanding any other provision of law, a  
39 physician may prescribe or administer any controlled substance  
40 under Schedules II-V, as provided for in s. 893.03, to a person



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41 for the treatment of intractable pain, provided the physician  
42 does so in accordance with that level of care, skill, and  
43 treatment recognized by a reasonably prudent physician under  
44 similar conditions and circumstances.

45 (d) ~~(4)~~ Nothing in this section shall be construed to  
46 condone, authorize, or approve mercy killing or euthanasia, and  
47 no treatment authorized by this section may be used for such  
48 purpose.

49 (2) (a) For the purposes of this subsection, the term  
50 "interventional pain medicine" means the practice of medicine  
51 devoted to the diagnosis and treatment of pain-related  
52 disorders, principally with the application of interventional  
53 techniques in managing chronic, intractable pain, independently  
54 or in conjunction with other treatment modalities. These  
55 techniques include minimally invasive procedures, including  
56 percutaneous precision needle placement, with placement of drugs  
57 in targeted areas or destruction of targeted nerves, and some  
58 surgical techniques such as laser or endoscopic discectomy,  
59 cement stabilization of spine fractures, intrathecal infusion  
60 pumps, and spinal cord stimulators, for the diagnosis and  
61 management of chronic, intractable pain.

62 (b) A person may not practice interventional pain medicine  
63 or offer to practice interventional pain medicine unless such  
64 acts are performed at facilities licensed under chapter 395 or  
65 are performed by or under the direct supervision of a physician  
66 licensed under this chapter or an osteopathic physician licensed  
67 under chapter 459.

68 Section 10. Paragraph (b) of subsection (2) of section  
69 458.3265, Florida Statutes, is amended to read:



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70 458.3265 Pain-management clinics.-

71 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities  
72 apply to any physician who provides professional services in a  
73 pain-management clinic that is required to be registered in  
74 subsection (1).

75 (b) A person may not dispense any medication on the  
76 premises of a registered pain-management clinic unless he or she  
77 is a physician licensed under this chapter or chapter 459. A  
78 person may not prescribe any controlled substance regulated  
79 under chapter 893 on the premises of a registered pain-  
80 management clinic unless he or she is a physician licensed under  
81 this chapter or chapter 459.

82 Section 11. Paragraph (b) of subsection (2) of section  
83 459.0137, Florida Statutes, is amended to read:

84 459.0137 Pain-management clinics.-

85 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities  
86 apply to any osteopathic physician who provides professional  
87 services in a pain-management clinic that is required to be  
88 registered in subsection (1).

89 (b) A person may not dispense any medication on the  
90 premises of a registered pain-management clinic unless he or she  
91 is a physician licensed under this chapter or chapter 458. A  
92 person may not prescribe any controlled substance regulated  
93 under chapter 893 on the premises of a registered pain-  
94 management clinic unless he or she is a physician licensed under  
95 this chapter or chapter 458.

96 Section 12. Paragraph (e) of subsection (4) of section  
97 458.347, Florida Statutes, is amended, and paragraph (c) of  
98 subsection (9) of that section is republished, to read:



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99 458.347 Physician assistants.—

100 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

101 (e) A supervisory physician may delegate to a fully  
102 licensed physician assistant the authority to prescribe or  
103 dispense any medication used in the supervisory physician's  
104 practice unless such medication is listed on the formulary  
105 created pursuant to paragraph (f). A fully licensed physician  
106 assistant may only prescribe or dispense such medication under  
107 the following circumstances:

108 1. A physician assistant must clearly identify to the  
109 patient that he or she is a physician assistant. Furthermore,  
110 the physician assistant must inform the patient that the patient  
111 has the right to see the physician prior to any prescription  
112 being prescribed or dispensed by the physician assistant.

113 2. The supervisory physician must notify the department of  
114 his or her intent to delegate, on a department-approved form,  
115 before delegating such authority and notify the department of  
116 any change in prescriptive privileges of the physician  
117 assistant. Authority to dispense may be delegated only by a  
118 supervising physician who is registered as a dispensing  
119 practitioner in compliance with s. 465.0276.

120 3. The physician assistant must file with the department a  
121 signed affidavit that he or she has completed a minimum of 10  
122 continuing medical education hours in the specialty practice in  
123 which the physician assistant has prescriptive privileges with  
124 each licensure renewal application. Three of the 10 hours must  
125 consist of a continuing education course on the safe and  
126 effective prescribing of controlled substance medications, which  
127 shall be offered by a statewide professional association of



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128 physicians in this state accredited to provide educational  
129 activities designated for the American Medical Association  
130 Physician's Recognition Award Category I Credit.

131 4. The department may issue a prescriber number to the  
132 physician assistant granting authority for the prescribing of  
133 medicinal drugs authorized within this paragraph upon completion  
134 of the foregoing requirements. The physician assistant shall not  
135 be required to independently register pursuant to s. 465.0276.

136 5. The prescription must be written in a form that complies  
137 with chapter 499 and must contain, in addition to the  
138 supervisory physician's name, address, and telephone number, the  
139 physician assistant's prescriber number. Unless it is a drug or  
140 drug sample dispensed by the physician assistant, the  
141 prescription must be filled in a pharmacy permitted under  
142 chapter 465 and must be dispensed in that pharmacy by a  
143 pharmacist licensed under chapter 465. The appearance of the  
144 prescriber number creates a presumption that the physician  
145 assistant is authorized to prescribe the medicinal drug and the  
146 prescription is valid.

147 6. The physician assistant must note the prescription or  
148 dispensing of medication in the appropriate medical record.

149 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on  
150 Physician Assistants is created within the department.

151 (c) The council shall:

152 1. Recommend to the department the licensure of physician  
153 assistants.

154 2. Develop all rules regulating the use of physician  
155 assistants by physicians under this chapter and chapter 459,  
156 except for rules relating to the formulary developed under



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157 paragraph (4) (f). The council shall also develop rules to ensure  
158 that the continuity of supervision is maintained in each  
159 practice setting. The boards shall consider adopting a proposed  
160 rule developed by the council at the regularly scheduled meeting  
161 immediately following the submission of the proposed rule by the  
162 council. A proposed rule submitted by the council may not be  
163 adopted by either board unless both boards have accepted and  
164 approved the identical language contained in the proposed rule.  
165 The language of all proposed rules submitted by the council must  
166 be approved by both boards pursuant to each respective board's  
167 guidelines and standards regarding the adoption of proposed  
168 rules. If either board rejects the council's proposed rule, that  
169 board must specify its objection to the council with  
170 particularity and include any recommendations it may have for  
171 the modification of the proposed rule.

172 3. Make recommendations to the boards regarding all matters  
173 relating to physician assistants.

174 4. Address concerns and problems of practicing physician  
175 assistants in order to improve safety in the clinical practices  
176 of licensed physician assistants.

177 Section 13. Effective January 1, 2016, paragraph (f) of  
178 subsection (4) of section 458.347, Florida Statutes, is amended  
179 to read:

180 458.347 Physician assistants.—

181 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

182 (f)1. The council shall establish a formulary of medicinal  
183 drugs that a fully licensed physician assistant having  
184 prescribing authority under this section or s. 459.022 may not  
185 prescribe. The formulary must include ~~controlled substances as~~



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186 ~~defined in chapter 893,~~ general anesthetics, and radiographic  
187 contrast materials, and must limit the prescription of Schedule  
188 II controlled substances as defined in s. 893.03 to a 7-day  
189 supply. The formulary must also restrict the prescribing of  
190 controlled substances that are psychotropic medications,  
191 including antihypnotics, antipsychotics, antidepressants,  
192 anxiety agents, sedatives, psychomotor stimulants, and mood  
193 stabilizers for children under the age of 18.

194       2. In establishing the formulary, the council shall consult  
195 with a pharmacist licensed under chapter 465, but not licensed  
196 under this chapter or chapter 459, who shall be selected by the  
197 State Surgeon General.

198       3. Only the council shall add to, delete from, or modify  
199 the formulary. Any person who requests an addition, deletion, or  
200 modification of a medicinal drug listed on such formulary has  
201 the burden of proof to show cause why such addition, deletion,  
202 or modification should be made.

203       4. The boards shall adopt the formulary required by this  
204 paragraph, and each addition, deletion, or modification to the  
205 formulary, by rule. Notwithstanding any provision of chapter 120  
206 to the contrary, the formulary rule shall be effective 60 days  
207 after the date it is filed with the Secretary of State. Upon  
208 adoption of the formulary, the department shall mail a copy of  
209 such formulary to each fully licensed physician assistant having  
210 prescribing authority under this section or s. 459.022, and to  
211 each pharmacy licensed by the state. The boards shall establish,  
212 by rule, a fee not to exceed \$200 to fund the provisions of this  
213 paragraph and paragraph (e).

214       Section 14. Subsection (2) of section 464.003, Florida





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215 Statutes, is amended to read:

216 464.003 Definitions.—As used in this part, the term:

217 (2) "Advanced or specialized nursing practice" means, in  
218 addition to the practice of professional nursing, the  
219 performance of advanced-level nursing acts approved by the board  
220 which, by virtue of postbasic specialized education, training,  
221 and experience, are appropriately performed by an advanced  
222 registered nurse practitioner. Within the context of advanced or  
223 specialized nursing practice, the advanced registered nurse  
224 practitioner may perform acts of nursing diagnosis and nursing  
225 treatment of alterations of the health status. The advanced  
226 registered nurse practitioner may also perform acts of medical  
227 diagnosis and treatment, prescription, and operation as  
228 authorized within the framework of an established supervisory  
229 protocol ~~which are identified and approved by a joint committee~~  
230 ~~composed of three members appointed by the Board of Nursing, two~~  
231 ~~of whom must be advanced registered nurse practitioners; three~~  
232 ~~members appointed by the Board of Medicine, two of whom must~~  
233 ~~have had work experience with advanced registered nurse~~  
234 ~~practitioners; and the State Surgeon General or the State~~  
235 ~~Surgeon General's designee. Each committee member appointed by a~~  
236 ~~board shall be appointed to a term of 4 years unless a shorter~~  
237 ~~term is required to establish or maintain staggered terms. The~~  
238 ~~Board of Nursing shall adopt rules authorizing the performance~~  
239 ~~of any such acts approved by the joint committee. Unless~~  
240 ~~otherwise specified by the joint committee, such acts must be~~  
241 ~~performed under the general supervision of a practitioner~~  
242 ~~licensed under chapter 458, chapter 459, or chapter 466 within~~  
243 ~~the framework of standing protocols which identify the medical~~



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244 ~~acts to be performed and the conditions for their performance.~~  
245 The department may, by rule, require that a copy of the protocol  
246 be filed with the department along with the notice required by  
247 s. 458.348.

248 Section 15. Subsection (6) is added to section 464.012,  
249 Florida Statutes, to read:

250 464.012 Certification of advanced registered nurse  
251 practitioners; fees; controlled substance prescribing.—

252 (6) (a) The board shall establish a committee to recommend a  
253 formulary of controlled substances that an advanced registered  
254 nurse practitioner may not prescribe or may prescribe only for  
255 specific uses or in limited quantities. The committee must  
256 consist of three advanced registered nurse practitioners  
257 licensed under s. 464.012, recommended by the Board of Nursing;  
258 three physicians licensed under chapter 458 or chapter 459 who  
259 have had work experience with advanced registered nurse  
260 practitioners, recommended by the Board of Medicine; and a  
261 pharmacist licensed under chapter 465 who holds a Doctor of  
262 Pharmacy degree, recommended by the Board of Pharmacy. The  
263 committee may recommend an evidence-based formulary applicable  
264 to all advanced registered nurse practitioners, which is limited  
265 by specially certification or to approved uses of controlled  
266 substances, or subject to other similar restrictions the  
267 committee finds are necessary to protect the health, safety, and  
268 welfare of the public. The formulary must restrict the  
269 prescribing of controlled substance psychotropic medications,  
270 including antihypnotics, antipsychotics, antidepressants,  
271 anxiety agents, sedatives, psychomotor stimulants, and mood  
272 stabilizers for children under the age of 18 to psychiatric



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273 nurses as defined in s. 394.455. The formulary must also limit  
274 the prescribing of Schedule II controlled substances as defined  
275 in s. 893.03 to a 7-day supply, except that such restriction  
276 does not apply to controlled substances that are psychiatric  
277 medications prescribed by psychiatric nurses as defined in s.  
278 394.455.

279 (b) The board shall adopt by rule the recommended formulary  
280 and recommended additions or deletions to the formulary which it  
281 finds are supported by evidence-based clinical findings  
282 presented by the Board of Medicine, the Board of Osteopathic  
283 Medicine, or the Board of Dentistry.

284 (c) The formulary required under this subsection does not  
285 apply to a controlled substance order that is dispensed for  
286 administration including orders for medication authorized in  
287 subparagraph (4)(a)3. or subparagraph (4)(a)4.

288 (d) The board shall adopt the committee's initial  
289 recommendation no later January 1, 2016.

290 Section 16. Effective January 1, 2016, subsection (3) of  
291 section 464.012, Florida Statutes, is amended to read:

292 464.012 Certification of advanced registered nurse  
293 practitioners; fees; controlled substance prescribing.—

294 (3) An advanced registered nurse practitioner shall perform  
295 those functions authorized in this section within the framework  
296 of an established protocol that is filed with the board upon  
297 biennial license renewal and within 30 days after entering into  
298 a supervisory relationship with a physician or changes to the  
299 protocol. The board shall review the protocol to ensure  
300 compliance with applicable regulatory standards for protocols.  
301 The board shall refer to the department licensees submitting



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302 protocols that are not compliant with the regulatory standards  
303 for protocols. A practitioner currently licensed under chapter  
304 458, chapter 459, or chapter 466 shall maintain supervision for  
305 directing the specific course of medical treatment. Within the  
306 established framework, an advanced registered nurse practitioner  
307 may:

308       (a) Prescribe, dispense, administer, or order any drug;  
309 however, an advanced registered nurse practitioner may only  
310 prescribe or dispense a controlled substance as defined in s.  
311 893.03 if the advanced registered nurse practitioner has  
312 graduated from a program leading to a master's degree in a  
313 clinical nursing specialty area with training in specialized  
314 practitioner skills. ~~Monitor and alter drug therapies.~~

315       (b) Initiate appropriate therapies for certain conditions.

316       (c) Perform additional functions as may be determined by  
317 rule in accordance with s. 464.003(2).

318       (d) Order diagnostic tests and physical and occupational  
319 therapy.

320       Section 17. Subsection (3) of section 464.013, Florida  
321 Statutes, is amended to read:

322       464.013 Renewal of license or certificate.—

323       (3) The board shall by rule prescribe up to 30 hours of  
324 continuing education biennially as a condition for renewal of a  
325 license or certificate.

326       (a) A nurse who is certified by a health care specialty  
327 program accredited by the National Commission for Certifying  
328 Agencies or the Accreditation Board for Specialty Nursing  
329 Certification is exempt from continuing education requirements.  
330 The criteria for programs must ~~shall~~ be approved by the board.



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331 (b) Notwithstanding the exemption in paragraph (a), as part  
332 of the maximum 30 hours of continuing education hours required  
333 under this subsection, advanced registered nurse practitioners  
334 certified under s. 464.012 must complete at least 3 hours of  
335 continuing education on the safe and effective prescription of  
336 controlled substances. Such continuing education courses must be  
337 offered by a statewide professional association of physicians in  
338 this state accredited to provide educational activities  
339 designated for the American Medical Association Physician's  
340 Recognition Award Category 1 Credit, the American Nurses  
341 Credentialing Center, or the American Association of Nurse  
342 Practitioners and may be offered in a distance-learning format.

343 Section 18. Paragraph (p) is added to subsection (1) of  
344 section 464.018, Florida Statutes, and subsection (2) of that  
345 section is republished, to read:

346 464.018 Disciplinary actions.—

347 (1) The following acts constitute grounds for denial of a  
348 license or disciplinary action, as specified in s. 456.072(2):

349 (p) For an advanced registered nurse practitioner:

350 1. Presigning blank prescription forms.

351 2. Prescribing for office use any medicinal drug appearing  
352 on Schedule II in chapter 893.

353 3. Prescribing, ordering, dispensing, administering,  
354 supplying, selling, or giving a drug that is an amphetamine or a  
355 sympathomimetic amine drug, or a compound designated pursuant to  
356 chapter 893 as a Schedule II controlled substance, to or for any  
357 person except for:

358 a. The treatment of narcolepsy; hyperkinesis; behavioral  
359 syndrome in children characterized by the developmentally



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360 inappropriate symptoms of moderate to severe distractibility,  
361 short attention span, hyperactivity, emotional lability, and  
362 impulsivity; or drug-induced brain dysfunction.

363 b. The differential diagnostic psychiatric evaluation of  
364 depression or the treatment of depression shown to be refractory  
365 to other therapeutic modalities.

366 c. The clinical investigation of the effects of such drugs  
367 or compounds when an investigative protocol is submitted to,  
368 reviewed by, and approved by the department before such  
369 investigation is begun.

370 4. Prescribing, ordering, dispensing, administering,  
371 supplying, selling, or giving growth hormones, testosterone or  
372 its analogs, human chorionic gonadotropin (HCG), or other  
373 hormones for the purpose of muscle building or to enhance  
374 athletic performance. As used in this subparagraph, the term  
375 "muscle building" does not include the treatment of injured  
376 muscle. A prescription written for the drug products listed in  
377 this paragraph may be dispensed by a pharmacist with the  
378 presumption that the prescription is for legitimate medical use.

379 5. Promoting or advertising on any prescription form a  
380 community pharmacy unless the form also states: "This  
381 prescription may be filled at any pharmacy of your choice."

382 6. Prescribing, dispensing, administering, mixing, or  
383 otherwise preparing a legend drug, including a controlled  
384 substance, other than in the course of his or her professional  
385 practice. For the purposes of this subparagraph, it is legally  
386 presumed that prescribing, dispensing, administering, mixing, or  
387 otherwise preparing legend drugs, including all controlled  
388 substances, inappropriately or in excessive or inappropriate



389 quantities is not in the best interest of the patient and is not  
390 in the course of the advanced registered nurse practitioner's  
391 professional practice, without regard to his or her intent.

392 7. Prescribing, dispensing, or administering a medicinal  
393 drug appearing on any schedule set forth in chapter 893 to  
394 himself or herself, except a drug prescribed, dispensed, or  
395 administered to the advanced registered nurse practitioner by  
396 another practitioner authorized to prescribe, dispense, or  
397 administer medicinal drugs.

398 8. Prescribing, ordering, dispensing, administering,  
399 supplying, selling, or giving amygdalin (laetrile) to any  
400 person.

401 9. Dispensing a controlled substance listed on Schedule II  
402 or Schedule III in chapter 893 in violation of s. 465.0276.

403 10. Promoting or advertising through any communication  
404 medium the use, sale, or dispensing of a controlled substance  
405 appearing on any schedule in chapter 893.

406 (2) The board may enter an order denying licensure or  
407 imposing any of the penalties in s. 456.072(2) against any  
408 applicant for licensure or licensee who is found guilty of  
409 violating any provision of subsection (1) of this section or who  
410 is found guilty of violating any provision of s. 456.072(1).

411  
412 ===== T I T L E A M E N D M E N T =====

413 And the title is amended as follows:

414 Delete lines 908 - 952

415 and insert:

416 standards of practice; providing applicability;  
417 amending s. 458.326, F.S.; defining the term



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418 "interventional pain medicine"; restricting the  
419 practice of interventional pain medicine to specified  
420 circumstances; amending ss. 458.3265 and 459.0137,  
421 F.S.; limiting the authority to prescribe a controlled  
422 substance in a pain-management clinic to a physician  
423 licensed under ch. 458 or ch. 459, F.S.; amending s.  
424 458.347, F.S.; revising the required continuing  
425 education requirements for a physician assistant;  
426 amending s. 458.347, F.S.; requiring the Council of  
427 Physician Assistants to create a formulary which  
428 includes the controlled substances a physician  
429 assistant is authorized to prescribe; amending s.  
430 464.003, F.S.; redefining the term "advanced or  
431 specialized nursing practice"; removing the joint  
432 committee established in the definition; amending s.  
433 464.012, F.S.; requiring the Board of Nursing to  
434 establish a committee to make recommendations  
435 regarding the need for adoption of a formulary of  
436 controlled substances that may be prescribed by an  
437 advanced registered nurse practitioner; specifying the  
438 membership of the committee; providing parameters for  
439 the recommendations of the committee; requiring that  
440 any formulary be adopted by board rule; specifying the  
441 process for amending the formulary and imposing a  
442 burden of proof; limiting the formulary's application  
443 in certain instances; requiring the board to adopt the  
444 committee's initial recommendations by a specified  
445 date; amending s. 464.012, F.S.; authorizing an  
446 advanced registered nurse practitioner to prescribe,





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447 dispense, administer, or order drugs, rather than to  
448 monitor and alter drug therapies; providing an  
449 exception; amending s. 464.013, F.S.; revising  
450 conditions for renewal of a license or certificate;  
451 amending s. 464.018, F.S.; specifying acts that  
452 constitute grounds for denial of a license or for  
453 disciplinary action against an advanced registered  
454 nurse practitioner;