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LEGISLATIVE ACTION

Senate

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House

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03/09/2016 06:42 PM

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Senator Grimsley moved the following:

1 **Senate Amendment to Amendment (510114) (with title**
2 **amendment)**

3
4 Between lines 108 and 109
5 insert:

6 Section 4. Paragraph (g) is added to subsection (1) of
7 section 456.44, Florida Statutes, and subsections (2) and (3) of
8 that section are amended, to read:

9 456.44 Controlled substance prescribing.—

10 (1) DEFINITIONS.—As used in this section, the term:

11 (g) "Registrant" means a physician who meets the



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12 requirements of subsection (2).

13 (2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician
14 licensed under chapter 458, chapter 459, chapter 461, or chapter
15 466 who prescribes any controlled substance, listed in Schedule
16 II, Schedule III, or Schedule IV as defined in s. 893.03, for
17 the treatment of chronic nonmalignant pain, must:

18 (a) Designate himself or herself as a controlled substance
19 prescribing practitioner on his or her ~~the physician's~~
20 practitioner profile.

21 (b) Comply with the requirements of this section and
22 applicable board rules.

23 (3) STANDARDS OF PRACTICE.—The standards of practice in
24 this section do not supersede the level of care, skill, and
25 treatment recognized in general law related to health care
26 licensure.

27 (a) A complete medical history and a physical examination
28 must be conducted before beginning any treatment and must be
29 documented in the medical record. The exact components of the
30 physical examination shall be left to the judgment of the
31 registrant ~~clinician~~ who is expected to perform a physical
32 examination proportionate to the diagnosis that justifies a
33 treatment. The medical record must, at a minimum, document the
34 nature and intensity of the pain, current and past treatments
35 for pain, underlying or coexisting diseases or conditions, the
36 effect of the pain on physical and psychological function, a
37 review of previous medical records, previous diagnostic studies,
38 and history of alcohol and substance abuse. The medical record
39 shall also document the presence of one or more recognized
40 medical indications for the use of a controlled substance. Each



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41 registrant must develop a written plan for assessing each
42 patient's risk of aberrant drug-related behavior, which may
43 include patient drug testing. Registrants must assess each
44 patient's risk for aberrant drug-related behavior and monitor
45 that risk on an ongoing basis in accordance with the plan.

46 (b) Each registrant must develop a written individualized
47 treatment plan for each patient. The treatment plan shall state
48 objectives that will be used to determine treatment success,
49 such as pain relief and improved physical and psychosocial
50 function, and shall indicate if any further diagnostic
51 evaluations or other treatments are planned. After treatment
52 begins, the registrant ~~physician~~ shall adjust drug therapy to
53 the individual medical needs of each patient. Other treatment
54 modalities, including a rehabilitation program, shall be
55 considered depending on the etiology of the pain and the extent
56 to which the pain is associated with physical and psychosocial
57 impairment. The interdisciplinary nature of the treatment plan
58 shall be documented.

59 (c) The registrant ~~physician~~ shall discuss the risks and
60 benefits of the use of controlled substances, including the
61 risks of abuse and addiction, as well as physical dependence and
62 its consequences, with the patient, persons designated by the
63 patient, or the patient's surrogate or guardian if the patient
64 is incompetent. The registrant ~~physician~~ shall use a written
65 controlled substance agreement between the registrant ~~physician~~
66 and the patient outlining the patient's responsibilities,
67 including, but not limited to:

68 1. Number and frequency of controlled substance
69 prescriptions and refills.



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70 2. Patient compliance and reasons for which drug therapy
71 may be discontinued, such as a violation of the agreement.

72 3. An agreement that controlled substances for the
73 treatment of chronic nonmalignant pain shall be prescribed by a
74 single treating registrant ~~physician~~ unless otherwise authorized
75 by the treating registrant ~~physician~~ and documented in the
76 medical record.

77 (d) The patient shall be seen by the registrant ~~physician~~
78 at regular intervals, not to exceed 3 months, to assess the
79 efficacy of treatment, ensure that controlled substance therapy
80 remains indicated, evaluate the patient's progress toward
81 treatment objectives, consider adverse drug effects, and review
82 the etiology of the pain. Continuation or modification of
83 therapy shall depend on the registrant's ~~physician's~~ evaluation
84 of the patient's progress. If treatment goals are not being
85 achieved, despite medication adjustments, the registrant
86 ~~physician~~ shall reevaluate the appropriateness of continued
87 treatment. The registrant ~~physician~~ shall monitor patient
88 compliance in medication usage, related treatment plans,
89 controlled substance agreements, and indications of substance
90 abuse or diversion at a minimum of 3-month intervals.

91 (e) The registrant ~~physician~~ shall refer the patient as
92 necessary for additional evaluation and treatment in order to
93 achieve treatment objectives. Special attention shall be given
94 to those patients who are at risk for misusing their medications
95 and those whose living arrangements pose a risk for medication
96 misuse or diversion. The management of pain in patients with a
97 history of substance abuse or with a comorbid psychiatric
98 disorder requires extra care, monitoring, and documentation and



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99 requires consultation with or referral to an addiction medicine
100 specialist or a psychiatrist.

101 (f) A registrant ~~physician registered under this section~~
102 must maintain accurate, current, and complete records that are
103 accessible and readily available for review and comply with the
104 requirements of this section, the applicable practice act, and
105 applicable board rules. The medical records must include, but
106 are not limited to:

107 1. The complete medical history and a physical examination,
108 including history of drug abuse or dependence.

109 2. Diagnostic, therapeutic, and laboratory results.

110 3. Evaluations and consultations.

111 4. Treatment objectives.

112 5. Discussion of risks and benefits.

113 6. Treatments.

114 7. Medications, including date, type, dosage, and quantity
115 prescribed.

116 8. Instructions and agreements.

117 9. Periodic reviews.

118 10. Results of any drug testing.

119 11. A photocopy of the patient's government-issued photo
120 identification.

121 12. If a written prescription for a controlled substance is
122 given to the patient, a duplicate of the prescription.

123 13. The registrant's ~~physician's~~ full name presented in a
124 legible manner.

125 (g) A registrant shall immediately refer patients with
126 signs or symptoms of substance abuse ~~shall be immediately~~
127 ~~referred~~ to a board-certified pain management physician, an



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128 addiction medicine specialist, or a mental health addiction
129 facility as it pertains to drug abuse or addiction unless the
130 registrant is a physician who is board-certified or board-
131 eligible in pain management. Throughout the period of time
132 before receiving the consultant's report, a prescribing
133 registrant ~~physician~~ shall clearly and completely document
134 medical justification for continued treatment with controlled
135 substances and those steps taken to ensure medically appropriate
136 use of controlled substances by the patient. Upon receipt of the
137 consultant's written report, the prescribing registrant
138 ~~physician~~ shall incorporate the consultant's recommendations for
139 continuing, modifying, or discontinuing controlled substance
140 therapy. The resulting changes in treatment shall be
141 specifically documented in the patient's medical record.
142 Evidence or behavioral indications of diversion shall be
143 followed by discontinuation of controlled substance therapy, and
144 the patient shall be discharged, and all results of testing and
145 actions taken by the registrant ~~physician~~ shall be documented in
146 the patient's medical record.

147
148 This subsection does not apply to a board-eligible or board-
149 certified anesthesiologist, physiatrist, rheumatologist, or
150 neurologist, or to a board-certified physician who has surgical
151 privileges at a hospital or ambulatory surgery center and
152 primarily provides surgical services. This subsection does not
153 apply to a board-eligible or board-certified medical specialist
154 who has also completed a fellowship in pain medicine approved by
155 the Accreditation Council for Graduate Medical Education or the
156 American Osteopathic Association, or who is board eligible or



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157 board certified in pain medicine by the American Board of Pain
158 Medicine, the American Board of Interventional Pain Physicians,
159 the American Association of Physician Specialists, or a board
160 approved by the American Board of Medical Specialties or the
161 American Osteopathic Association and performs interventional
162 pain procedures of the type routinely billed using surgical
163 codes. This subsection does not apply to a registrant ~~physician~~
164 who prescribes medically necessary controlled substances for a
165 patient during an inpatient stay in a hospital licensed under
166 chapter 395.

167 Section 5. Paragraph (b) of subsection (2) of section
168 458.3265, Florida Statutes, is amended to read:

169 458.3265 Pain-management clinics.—

170 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
171 apply to any physician who provides professional services in a
172 pain-management clinic that is required to be registered in
173 subsection (1).

174 (b) ~~Only a person may not dispense any medication on the~~
175 ~~premises of a registered pain-management clinic unless he or she~~
176 ~~is~~ a physician licensed under this chapter or chapter 459 may
177 dispense medication or prescribe a controlled substance
178 regulated under chapter 893 on the premises of a registered
179 pain-management clinic.

180 Section 6. Paragraph (b) of subsection (2) of section
181 459.0137, Florida Statutes, is amended to read:

182 459.0137 Pain-management clinics.—

183 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
184 apply to any osteopathic physician who provides professional
185 services in a pain-management clinic that is required to be



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186 registered in subsection (1).

187 (b) ~~Only a person may not dispense any medication on the~~
188 ~~premises of a registered pain-management clinic unless he or she~~
189 ~~is~~ a physician licensed under this chapter or chapter 458 may
190 dispense medication or prescribe a controlled substance
191 regulated under chapter 893 on the premises of a registered
192 pain-management clinic.

193 Section 7. Section 464.012, Florida Statutes, is amended to
194 read:

195 464.012 Certification of advanced registered nurse
196 practitioners; fees.—

197 (1) Any nurse desiring to be certified as an advanced
198 registered nurse practitioner shall apply to the department and
199 submit proof that he or she holds a current license to practice
200 professional nursing and that he or she meets one or more of the
201 following requirements as determined by the board:

202 (a) Satisfactory completion of a formal postbasic
203 educational program of at least one academic year, the primary
204 purpose of which is to prepare nurses for advanced or
205 specialized practice.

206 (b) Certification by an appropriate specialty board. Such
207 certification shall be required for initial state certification
208 and any recertification as a registered nurse anesthetist,
209 psychiatric nurse, or nurse midwife. The board may by rule
210 provide for provisional state certification of graduate nurse
211 anesthetists, psychiatric nurses, and nurse midwives for a
212 period of time determined to be appropriate for preparing for
213 and passing the national certification examination.

214 (c) Graduation from a program leading to a master's degree



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215 in a nursing clinical specialty area with preparation in
216 specialized practitioner skills. For applicants graduating on or
217 after October 1, 1998, graduation from a master's degree program
218 shall be required for initial certification as a nurse
219 practitioner under paragraph (4) (c). For applicants graduating
220 on or after October 1, 2001, graduation from a master's degree
221 program shall be required for initial certification as a
222 registered nurse anesthetist under paragraph (4) (a).

223 (2) The board shall provide by rule the appropriate
224 requirements for advanced registered nurse practitioners in the
225 categories of certified registered nurse anesthetist, certified
226 nurse midwife, and nurse practitioner.

227 (3) An advanced registered nurse practitioner shall perform
228 those functions authorized in this section within the framework
229 of an established protocol that is filed with the board upon
230 biennial license renewal and within 30 days after entering into
231 a supervisory relationship with a physician or changes to the
232 protocol. The board shall review the protocol to ensure
233 compliance with applicable regulatory standards for protocols.
234 The board shall refer to the department licensees submitting
235 protocols that are not compliant with the regulatory standards
236 for protocols. A practitioner currently licensed under chapter
237 458, chapter 459, or chapter 466 shall maintain supervision for
238 directing the specific course of medical treatment. Within the
239 established framework, an advanced registered nurse practitioner
240 may:

- 241 (a) Monitor and alter drug therapies.
- 242 (b) Initiate appropriate therapies for certain conditions.
- 243 (c) Perform additional functions as may be determined by



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244 rule in accordance with s. 464.003(2).

245 (d) Order diagnostic tests and physical and occupational
246 therapy.

247 (4) In addition to the general functions specified in
248 subsection (3), an advanced registered nurse practitioner may
249 perform the following acts within his or her specialty:

250 (a) The certified registered nurse anesthetist may, to the
251 extent authorized by established protocol approved by the
252 medical staff of the facility in which the anesthetic service is
253 performed, perform any or all of the following:

254 1. Determine the health status of the patient as it relates
255 to the risk factors and to the anesthetic management of the
256 patient through the performance of the general functions.

257 2. Based on history, physical assessment, and supplemental
258 laboratory results, determine, with the consent of the
259 responsible physician, the appropriate type of anesthesia within
260 the framework of the protocol.

261 3. Order under the protocol preanesthetic medication.

262 4. Perform under the protocol procedures commonly used to
263 render the patient insensible to pain during the performance of
264 surgical, obstetrical, therapeutic, or diagnostic clinical
265 procedures. These procedures include ordering and administering
266 regional, spinal, and general anesthesia; inhalation agents and
267 techniques; intravenous agents and techniques; and techniques of
268 hypnosis.

269 5. Order or perform monitoring procedures indicated as
270 pertinent to the anesthetic health care management of the
271 patient.

272 6. Support life functions during anesthesia health care,



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273 including induction and intubation procedures, the use of
274 appropriate mechanical supportive devices, and the management of
275 fluid, electrolyte, and blood component balances.

276 7. Recognize and take appropriate corrective action for
277 abnormal patient responses to anesthesia, adjunctive medication,
278 or other forms of therapy.

279 8. Recognize and treat a cardiac arrhythmia while the
280 patient is under anesthetic care.

281 9. Participate in management of the patient while in the
282 postanesthesia recovery area, including ordering the
283 administration of fluids and drugs.

284 10. Place special peripheral and central venous and
285 arterial lines for blood sampling and monitoring as appropriate.

286 (b) The certified nurse midwife may, to the extent
287 authorized by an established protocol which has been approved by
288 the medical staff of the health care facility in which the
289 midwifery services are performed, or approved by the nurse
290 midwife's physician backup when the delivery is performed in a
291 patient's home, perform any or all of the following:

292 1. Perform superficial minor surgical procedures.

293 2. Manage the patient during labor and delivery to include
294 amniotomy, episiotomy, and repair.

295 3. Order, initiate, and perform appropriate anesthetic
296 procedures.

297 4. Perform postpartum examination.

298 5. Order appropriate medications.

299 6. Provide family-planning services and well-woman care.

300 7. Manage the medical care of the normal obstetrical
301 patient and the initial care of a newborn patient.



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302 (c) The nurse practitioner may perform any or all of the
303 following acts within the framework of established protocol:

- 304 1. Manage selected medical problems.
305 2. Order physical and occupational therapy.
306 3. Initiate, monitor, or alter therapies for certain
307 uncomplicated acute illnesses.
308 4. Monitor and manage patients with stable chronic
309 diseases.
310 5. Establish behavioral problems and diagnosis and make
311 treatment recommendations.

312 (5) A psychiatric nurse, as defined in s. 394.455, within
313 the framework of an established protocol with a psychiatrist,
314 may prescribe psychotropic controlled substances for the
315 treatment of mental disorders.

316 (6) The board shall certify, and the department shall issue
317 a certificate to, any nurse meeting the qualifications in this
318 section. The board shall establish an application fee not to
319 exceed \$100 and a biennial renewal fee not to exceed \$50. The
320 board is authorized to adopt such other rules as are necessary
321 to implement the provisions of this section.

322 Section 8. Paragraph (p) is added to subsection (1) of
323 section 464.018, Florida Statutes, and subsection (2) of that
324 section is republished, to read:

325 464.018 Disciplinary actions.—

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

328 (p) For a psychiatric nurse:

- 329 1. Presigning blank prescription forms.
330 2. Prescribing for office use any medicinal drug appearing



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331 in Schedule II of s. 893.03.

332 3. Prescribing, ordering, dispensing, administering,
333 supplying, selling, or giving a drug that is an amphetamine, a
334 sympathomimetic amine drug, or a compound designated in s.
335 893.03(2) as a Schedule II controlled substance, to or for any
336 person except for:

337 a. The treatment of narcolepsy; hyperkinesis; behavioral
338 syndrome in children characterized by the developmentally
339 inappropriate symptoms of moderate to severe distractibility,
340 short attention span, hyperactivity, emotional lability, and
341 impulsivity; or drug-induced brain dysfunction.

342 b. The differential diagnostic psychiatric evaluation of
343 depression or the treatment of depression shown to be refractory
344 to other therapeutic modalities.

345 c. The clinical investigation of the effects of such drugs
346 or compounds when an investigative protocol is submitted to,
347 reviewed by, and approved by the department before such
348 investigation is begun.

349 4. Prescribing, ordering, dispensing, administering,
350 supplying, selling, or giving growth hormones, testosterone or
351 its analogs, human chorionic gonadotropin (HCG), or other
352 hormones for the purpose of muscle building or to enhance
353 athletic performance. As used in this subparagraph, the term
354 "muscle building" does not include the treatment of injured
355 muscle. A prescription written for the drug products identified
356 in this subparagraph may be dispensed by a pharmacist with the
357 presumption that the prescription is for legitimate medical use.

358 5. Promoting or advertising on any prescription form a
359 community pharmacy unless the form also states: "This



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360 prescription may be filled at any pharmacy of your choice."

361 6. Prescribing, dispensing, administering, mixing, or
362 otherwise preparing a legend drug, including a controlled
363 substance, other than in the course of his or her professional
364 practice. For the purposes of this subparagraph, it is legally
365 presumed that prescribing, dispensing, administering, mixing, or
366 otherwise preparing legend drugs, including all controlled
367 substances, inappropriately or in excessive or inappropriate
368 quantities is not in the best interest of the patient and is not
369 in the course of the advanced registered nurse practitioner's
370 professional practice, without regard to his or her intent.

371 7. Prescribing, dispensing, or administering a medicinal
372 drug appearing on any schedule set forth in chapter 893 to
373 himself or herself, except a drug prescribed, dispensed, or
374 administered to the psychiatric nurse by another practitioner
375 authorized to prescribe, dispense, or administer medicinal
376 drugs.

377 8. Prescribing, ordering, dispensing, administering,
378 supplying, selling, or giving amygdalin (laetrile) to any
379 person.

380 9. Dispensing a substance designated in s. 893.03(2) or (3)
381 as a substance controlled in Schedule II or Schedule III,
382 respectively, in violation of s. 465.0276.

383 10. Promoting or advertising through any communication
384 medium the use, sale, or dispensing of a substance designated in
385 s. 893.03 as a controlled substance.

386 (2) The board may enter an order denying licensure or
387 imposing any of the penalties in s. 456.072(2) against any
388 applicant for licensure or licensee who is found guilty of



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389 violating any provision of subsection (1) of this section or who
390 is found guilty of violating any provision of s. 456.072(1).

391 Section 9. Subsection (21) of section 893.02, Florida
392 Statutes, is amended to read:

393 893.02 Definitions.—The following words and phrases as used
394 in this chapter shall have the following meanings, unless the
395 context otherwise requires:

396 (21) "Practitioner" means a physician licensed pursuant to
397 chapter 458, a dentist licensed pursuant to chapter 466, a
398 veterinarian licensed pursuant to chapter 474, an osteopathic
399 physician licensed pursuant to chapter 459, a naturopath
400 licensed pursuant to chapter 462, a certified optometrist
401 licensed pursuant to chapter 463, a psychiatric nurse as defined
402 in s. 394.455, or a podiatric physician licensed pursuant to
403 chapter 461, provided such practitioner holds a valid federal
404 controlled substance registry number.

405
406 ===== T I T L E A M E N D M E N T =====

407 And the title is amended as follows:

408 Delete line 123

409 and insert:

410 provider personnel; amending s. 456.44, F.S.; defining
411 the term "registrant"; requiring psychiatric nurses to
412 make certain designations and comply with certain
413 requirements under specified circumstances; amending
414 s. 458.3265, F.S.; restricting to physicians the
415 authorization to dispense certain medications or
416 prescribe certain controlled substances on the
417 premises of a registered pain-management clinic;



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418 amending s. 459.0137, F.S.; restricting to osteopathic
419 physicians the authorization to dispense certain
420 medications or prescribe certain controlled substances
421 on the premises of a registered pain-management
422 clinic; amending s. 464.012, F.S.; providing
423 certification criteria for psychiatric nurses;
424 authorizing psychiatric nurses to prescribe certain
425 psychotropic controlled substances under certain
426 circumstances; amending s. 464.018; providing that
427 certain acts by a psychiatric nurse constitute grounds
428 for denial of a license or disciplinary action;
429 amending s. 893.02, F.S.; revising the definition of
430 the term "practitioner"; providing an effective date.