

By Senator Gruters

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1 A bill to be entitled
2 An act relating to alternative treatments to
3 controlled substances; amending s. 456.44, F.S.;
4 requiring a practitioner who prescribes controlled
5 substances to recommend specified alternative
6 treatments for chronic nonmalignant pain before
7 prescribing a controlled substance to a patient;
8 requiring a licensed massage therapist to maintain
9 certain treatment records and submit them to the
10 referring practitioner; clarifying that a practitioner
11 who prescribes controlled substances may
12 simultaneously prescribe a controlled substance and
13 refer a patient to alternative treatment for chronic
14 nonmalignant pain; directing applicable boards to
15 adopt rules establishing guidelines for alternative
16 treatments for acute pain; amending s. 627.413, F.S.;
17 requiring certain insurance policies to provide
18 coverage for a minimum number of visits to alternative
19 treatment providers for the treatment of chronic
20 nonmalignant pain under certain conditions; providing
21 an exception; providing restrictions on deductibles,
22 coinsurances, and co-pays required for alternative
23 treatment; providing an effective date.

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

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27 Section 1. Present paragraphs (a) through (g) of subsection
28 (3) of section 456.44, Florida Statutes, are redesignated as
29 paragraphs (b) through (h), respectively, a new paragraph (a) is

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30 added to that subsection, and subsection (4) of that section is
31 amended, to read:

32 456.44 Controlled substance prescribing.—

33 (3) STANDARDS OF PRACTICE FOR TREATMENT OF CHRONIC
34 NONMALIGNANT PAIN.—The standards of practice in this section do
35 not supersede the level of care, skill, and treatment recognized
36 in general law related to health care licensure.

37 (a)1. Before a registrant prescribes a controlled substance
38 to a patient, the registrant must refer to the patient one or
39 more of the following alternative treatments based on the
40 registrant's clinical judgment and the availability of the
41 treatment:

42 a. Acupuncture by an acupuncturist licensed under chapter
43 457.

44 b. Osteopathic manipulation by an osteopathic physician
45 licensed under chapter 459.

46 c. Chiropractic services by a chiropractor licensed under
47 chapter 460.

48 d. Occupational therapy by an occupational therapist
49 licensed under part III of chapter 468.

50 e. Massage therapy by a massage therapist licensed under
51 chapter 480.

52 f. Physical therapy by a physical therapist licensed under
53 chapter 486.

54 2. A licensed massage therapist treating a patient for
55 chronic nonmalignant pain pursuant to a registrant's referral
56 shall maintain treatment records that document each treatment's
57 effect on the patient and shall submit such records to the
58 referring registrant.

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59 3. This paragraph does not prohibit a registrant from
60 simultaneously prescribing a controlled substance and referring
61 a patient to an alternative treatment for chronic nonmalignant
62 pain.

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64 This subsection does not apply to a board-eligible or board-
65 certified anesthesiologist, physiatrist, rheumatologist, or
66 neurologist, or to a board-certified physician who has surgical
67 privileges at a hospital or ambulatory surgery center and
68 primarily provides surgical services. This subsection does not
69 apply to a board-eligible or board-certified medical specialist
70 who has also completed a fellowship in pain medicine approved by
71 the Accreditation Council for Graduate Medical Education or the
72 American Osteopathic Association, or who is board eligible or
73 board certified in pain medicine by the American Board of Pain
74 Medicine, the American Board of Interventional Pain Physicians,
75 the American Association of Physician Specialists, or a board
76 approved by the American Board of Medical Specialties or the
77 American Osteopathic Association and performs interventional
78 pain procedures of the type routinely billed using surgical
79 codes. This subsection does not apply to a registrant who
80 prescribes medically necessary controlled substances for a
81 patient during an inpatient stay in a hospital licensed under
82 chapter 395.

83 (4) STANDARDS OF PRACTICE FOR TREATMENT OF ACUTE PAIN.—The
84 applicable boards shall adopt rules establishing guidelines for
85 the use of evidence-based, nonpharmaceutical alternative
86 treatments including chiropractic, osteopathic manipulation,
87 acupuncture, physical therapy, massage therapy, and occupational

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88 therapy, and for prescribing controlled substances, for acute
89 pain, including evaluation of the patient, creation and
90 maintenance of a treatment plan, obtaining informed consent and
91 agreement for treatment, periodic review of the treatment plan,
92 consultation, medical record review, and compliance with
93 controlled substance laws and regulations. Failure of a
94 prescriber to follow such guidelines constitutes grounds for
95 disciplinary action pursuant to s. 456.072(1)(gg), punishable as
96 provided in s. 456.072(2).

97 Section 2. Subsection (7) is added to section 627.413,
98 Florida Statutes, to read:

99 627.413 Contents of policies, in general; identification.—

100 (7) Every policy must provide coverage for at least five
101 visits in total to alternative treatment providers for the
102 treatment of chronic nonmalignant pain when recommended by a
103 registrant as described in s. 456.44(3)(a). If an insured's pain
104 was treated by an alternative treatment provider listed in s.
105 456.44(3)(a)1. before he or she sought treatment for the chronic
106 nonmalignant pain from a registrant as defined in s. 456.44(1),
107 the registrant's referral is not required as a condition of
108 coverage by an insurance provider that offers an insurance
109 product in this state. Any deductible, coinsurance, or co-pay
110 required for alternative treatment when recommended by a
111 registrant may not be greater than the deductible, coinsurance,
112 or co-pay required for a primary care visit.

113 Section 3. This act shall take effect July 1, 2019.