

1 A bill to be entitled
2 An act relating to advanced practice registered
3 nurses; amending s. 381.026, F.S.; revising the
4 definition of the term "health care provider" to
5 include an advanced practice registered nurse who is
6 registered to engage in independent practice; amending
7 s. 464.012, F.S.; requiring applicants for
8 registration as an advanced practice registered nurse
9 to apply to the Board of Nursing; authorizing an
10 advanced practice registered nurse to sign, certify,
11 stamp, verify, or endorse a document that requires the
12 signature, certification, stamp, verification,
13 affidavit, or endorsement of a physician within the
14 framework of an established protocol; providing an
15 exception; creating s. 464.0123, F.S.; defining the
16 term "independent practice"; providing for the
17 registration of an advanced practice registered nurse
18 to engage in independent practice; providing
19 registration requirements; authorizing such advanced
20 practice registered nurses to perform specified acts
21 without physician supervision or supervisory protocol;
22 requiring the department to distinguish such advanced
23 practice registered nurses' licenses and include the
24 registration in their practitioner profiles; requiring
25 biennial registration renewal and continuing

26 education; authorizing the Board of Nursing to
 27 establish an advisory committee to determine the
 28 medical acts that may be performed by such advanced
 29 practice registered nurses; providing for appointment
 30 and terms of committee members; requiring the board to
 31 adopt rules; creating s. 464.0155, F.S.; requiring
 32 advanced practice registered nurses who are registered
 33 to engage in independent practice to report adverse
 34 incidents to the Department of Health; providing
 35 requirements for such reports; defining the term
 36 "adverse incident"; providing for department review of
 37 such reports; authorizing the department to take
 38 disciplinary action; amending s. 464.018, F.S.;
 39 providing additional grounds for denial of a license
 40 or disciplinary action for advanced practice
 41 registered nurses who are registered to engage in
 42 independent practice; providing an effective date.

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

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 46 Section 1. Paragraph (c) of subsection (2) of section
 47 381.026, Florida Statutes, is amended to read:

48 381.026 Florida Patient's Bill of Rights and
 49 Responsibilities.—

50 (2) DEFINITIONS.—As used in this section and s. 381.0261,

51 the term:

52 (c) "Health care provider" means a physician licensed
 53 under chapter 458, an osteopathic physician licensed under
 54 chapter 459, ~~or~~ a podiatric physician licensed under chapter
 55 461, or an advanced practice registered nurse registered under
 56 s. 464.0123.

57 Section 2. Subsections (1) and (3) of section 464.012,
 58 Florida Statutes, are amended to read:

59 464.012 Licensure of advanced practice registered nurses;
 60 fees; controlled substance prescribing.—

61 (1) Any nurse desiring to be licensed as an advanced
 62 practice registered nurse must apply to the board ~~department~~ and
 63 submit proof that he or she holds a current license to practice
 64 professional nursing or holds an active multistate license to
 65 practice professional nursing pursuant to s. 464.0095 and ~~that~~
 66 ~~he or she~~ meets one or more of the following requirements ~~as~~
 67 ~~determined by the board:~~

68 (a) Certification by an appropriate specialty board. Such
 69 certification is required for initial state licensure and any
 70 licensure renewal as a certified nurse midwife, certified nurse
 71 practitioner, certified registered nurse anesthetist, clinical
 72 nurse specialist, or psychiatric nurse. The board may by rule
 73 provide for provisional state licensure of certified registered
 74 nurse anesthetists, clinical nurse specialists, certified nurse
 75 practitioners, psychiatric nurses, and certified nurse midwives

76 | for a period of time determined to be appropriate for preparing
77 | for and passing the national certification examination.

78 | (b) Graduation from a ~~program leading to a~~ master's degree
79 | program in a nursing clinical specialty area with preparation in
80 | specialized practitioner skills. For applicants graduating on or
81 | after October 1, 1998, graduation from a master's degree program
82 | is required for initial licensure as a certified nurse
83 | practitioner under paragraph (4) (a).

84 | 1. For applicants graduating on or after October 1, 2001,
85 | graduation from a master's degree program is required for
86 | initial licensure as a certified registered nurse anesthetist
87 | who may perform the acts listed in paragraph (4) (b).

88 | 2. For applicants graduating on or after October 1, 1998,
89 | graduation from a master's degree program is required for
90 | initial licensure as a certified nurse midwife who may perform
91 | the acts listed in paragraph (4) (c).

92 | 3. For applicants graduating on or after July 1, 2007,
93 | graduation from a master's degree program is required for
94 | initial licensure as a clinical nurse specialist who may perform
95 | the acts listed in paragraph (4) (d).

96 | (3) An advanced practice registered nurse shall perform
97 | those functions authorized in this section within the framework
98 | of an established protocol that must be maintained on site at
99 | the location or locations at which an advanced practice
100 | registered nurse practices, unless the advanced practice

101 registered nurse is registered to engage in independent practice
102 pursuant to s. 464.0123. In the case of multiple supervising
103 physicians in the same group, an advanced practice registered
104 nurse must enter into a supervisory protocol with at least one
105 physician within the physician group practice. A practitioner
106 currently licensed under chapter 458, chapter 459, or chapter
107 466 shall maintain supervision for directing the specific course
108 of medical treatment. Within the established framework, an
109 advanced practice registered nurse may:

110 (a) Prescribe, dispense, administer, or order any drug;
111 however, an advanced practice registered nurse may prescribe or
112 dispense a controlled substance as defined in s. 893.03 only if
113 the advanced practice registered nurse has graduated from a
114 program leading to a master's or doctoral degree in a clinical
115 nursing specialty area with training in specialized practitioner
116 skills.

117 (b) Initiate appropriate therapies for certain conditions.

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

120 (d) Order diagnostic tests and physical and occupational
121 therapy.

122 (e) Order any medication for administration to a patient
123 in a facility licensed under chapter 395 or part II of chapter
124 400, notwithstanding any provisions in chapter 465 or chapter
125 893.

126 (f) Sign, certify, stamp, verify, or endorse a document
 127 that requires the signature, certification, stamp, verification,
 128 affidavit, or endorsement of a physician. However, a supervisory
 129 physician may not delegate the authority to issue a documented
 130 approval to release a patient from a receiving facility or its
 131 contractor under s. 394.463(2)(f) to an advanced practice
 132 registered nurse.

133 Section 3. Section 464.0123, Florida Statutes, is created
 134 to read:

135 464.0123 Independent practice by an advanced practice
 136 registered nurse.-

137 (1) For purposes of this section, the term "independent
 138 practice" means advanced or specialized nursing practice by an
 139 advanced practice registered nurse who is not subject to
 140 supervision by a physician or a supervisory protocol.

141 (2) An advanced practice registered nurse may register
 142 with the board to have the authority to engage in independent
 143 practice upon demonstration to the board that he or she:

144 (a) Holds an active, unencumbered license to practice
 145 advanced or specialized nursing in this state.

146 (b) Has not been subject to any disciplinary action
 147 pursuant to s. 456.072 or s. 464.018, or any similar
 148 disciplinary action in any other jurisdiction of the United
 149 States, within the 5 years immediately preceding the
 150 registration request.

151 (c) Has completed, in any jurisdiction of the United
152 States, at least 2,000 clinical practice hours or clinical
153 instructional hours within the 5 years immediately preceding the
154 registration request while practicing as an advanced practice
155 registered nurse under the supervision of an allopathic or
156 osteopathic physician who held an active, unencumbered license
157 issued by another state, the District of Columbia, or a
158 possession or territory of the United States during the period
159 of such supervision; or

160 (d) Has completed a graduate-level course in pharmacology.

161 (3) The board may provide by rule additional requirements
162 for an advanced practice registered nurse who is registered
163 under this section when performing acts within his or her
164 specialty pursuant to s. 464.012(4).

165 (4) The board shall register an advanced practice
166 registered nurse who meets the qualifications in this section.

167 (5) The department shall conspicuously distinguish an
168 advanced practice registered nurse's license if he or she is
169 registered with the board under this section and include the
170 registration in the advanced practice registered nurse's
171 practitioner profile created under s. 456.041.

172 (6) An advanced practice registered nurse who is
173 registered under this section may perform the general functions
174 of an advanced practice registered nurse pursuant to s.
175 464.012(3), the acts within his or her specialty pursuant to s.

176 464.012(4), and the following:

177 (a) For a patient who requires the services of a health
178 care facility, as defined in s. 408.032(8):

179 1. Admit the patient to the facility.

180 2. Manage the care received by the patient in the
181 facility.

182 3. Discharge the patient from the facility, unless
183 prohibited by federal law or rule.

184 (b) Provide a signature, certification, stamp,
185 verification, affidavit, or endorsement that is otherwise
186 required by law to be provided by a physician.

187 (7)(a) An advanced practice registered nurse must
188 biennially renew his or her registration under this section. The
189 biennial renewal for registration shall coincide with the
190 advanced practice registered nurse's biennial renewal period for
191 advanced practice registered nurse licensure.

192 (b) To renew his or her registration under this section,
193 an advanced practice registered nurse must complete at least 10
194 hours of continuing education approved by the board in addition
195 to completing the continuing education requirements established
196 by board rule pursuant to s. 464.013. If the initial renewal
197 period occurs before January 1, 2020, an advanced practice
198 registered nurse who is registered under this section is not
199 required to complete the continuing education requirement under
200 this paragraph until the following biennial renewal period.

201 (8) The board may establish an advisory committee to make
 202 evidence-based recommendations about medical acts that an
 203 advanced practice registered nurse who is registered under this
 204 section may perform. The committee must consist of three
 205 advanced practice registered nurses licensed under this chapter,
 206 appointed by the board; three physicians licensed under chapter
 207 458 or chapter 459 who have professional experience with
 208 advanced practice registered nurses, appointed by the Board of
 209 Medicine; and the State Surgeon General or his or her designee.
 210 Each committee member appointed by a board shall serve a term of
 211 4 years, unless a shorter term is required to establish or
 212 maintain staggered terms. The Board of Nursing shall act upon
 213 the recommendations from the committee within 90 days after the
 214 submission of such recommendations.

215 (9) The board may adopt rules as necessary to implement
 216 this section.

217 Section 4. Section 464.0155, Florida Statutes, is created
 218 to read:

219 464.0155 Reports of adverse incidents by advanced practice
 220 registered nurses.—

221 (1) An advanced practice registered nurse who is
 222 registered to engage in independent practice pursuant to s.
 223 464.0123 must report an adverse incident to the department in
 224 accordance with this section.

225 (2) The report must be in writing, sent to the department

226 by certified mail, and postmarked within 15 days after the
227 occurrence of the adverse incident if the adverse incident
228 occurs when the patient is at the office of the advanced
229 practice registered nurse. If the adverse incident occurs when
230 the patient is not at the office of the advanced practice
231 registered nurse, the report must be postmarked within 15 days
232 after the advanced practice registered nurse discovers, or
233 reasonably should have discovered, the occurrence of the adverse
234 incident.

235 (3) For purposes of this section, the term "adverse
236 incident" means any of the following events when it is
237 reasonable to believe that the event is attributable to the
238 prescription of a controlled substance regulated under chapter
239 893 or 21 U.S.C. s. 812 by the advanced practice registered
240 nurse:

241 (a) A condition that requires the transfer of a patient to
242 a hospital licensed under chapter 395.

243 (b) Permanent physical injury to the patient.

244 (c) Death of the patient.

245 (4) The department shall review each report of an adverse
246 incident and determine whether the adverse incident was
247 attributable to conduct by the advanced practice registered
248 nurse. Upon such a determination, the board may take
249 disciplinary action pursuant to s. 456.073.

250 Section 5. Paragraph (r) is added to subsection (1) of

251 section 464.018, Florida Statutes, to read:

252 464.018 Disciplinary actions.—

253 (1) The following acts constitute grounds for denial of a
254 license or disciplinary action, as specified in ss. 456.072(2)
255 and 464.0095:

256 (r) For an advanced practice registered nurse who is
257 registered to engage in independent practice pursuant to s.
258 464.0123:

259 1. Paying or receiving any commission, bonus, kickback, or
260 rebate from, or engaging in any split-fee arrangement in any
261 form whatsoever with, a health care practitioner, organization,
262 agency, or person, either directly or implicitly, for referring
263 patients to providers of health care goods or services,
264 including, but not limited to, hospitals, nursing homes,
265 clinical laboratories, ambulatory surgical centers, or
266 pharmacies. This subparagraph may not be construed to prevent an
267 advanced practice registered nurse from receiving a fee for
268 professional consultation services.

269 2. Exercising influence within a patient-advanced practice
270 registered nurse relationship to engage a patient in sexual
271 activity. A patient shall be presumed to be incapable of giving
272 free, full, and informed consent to sexual activity with his or
273 her advanced practice registered nurse.

274 3. Making deceptive, untrue, or fraudulent representations
 275 in or related to, or employing a trick or scheme in, advanced or
 276 specialized nursing practice.

277 4. Soliciting patients, either personally or through an
 278 agent, by the use of fraud, intimidation, undue influence, or a
 279 form of overreaching or vexatious conduct. As used in this
 280 subparagraph, the term "soliciting" means directly or implicitly
 281 requesting an immediate oral response from the recipient.

282 5. Failing to keep legible, as defined by department rule
 283 in consultation with the board, medical records that identify
 284 the advanced practice registered nurse by name and professional
 285 title who is responsible for rendering, ordering, supervising,
 286 or billing for each diagnostic or treatment procedure and that
 287 justify the course of treatment of the patient, including, but
 288 not limited to, patient histories; examination results; test
 289 results; records of drugs prescribed, dispensed, or
 290 administered; and reports of consultations or referrals.

291 6. Exercising influence on the patient to exploit the
 292 patient for the financial gain of the advanced practice
 293 registered nurse or a third party, including, but not be limited
 294 to, the promoting or selling of services, goods, appliances, or
 295 drugs.

296 7. Performing professional services that have not been
 297 duly authorized by the patient, or his or her legal
 298 representative, except as provided in s. 766.103 or s. 768.13.

299 8. Performing any procedure or prescribing any therapy
300 that, by the prevailing standards of advanced or specialized
301 nursing practice in the community, would constitute
302 experimentation on a human subject, without first obtaining
303 full, informed, and written consent.

304 9. Delegating professional responsibilities to a person
305 when the advanced practice registered nurse delegating such
306 responsibilities knows or has reason to believe that such person
307 is not qualified by training, experience, or licensure to
308 perform such responsibilities.

309 10. Committing, or conspiring with another to commit, an
310 act that would tend to coerce, intimidate, or preclude another
311 advanced practice registered nurse from lawfully advertising his
312 or her services.

313 11. Advertising or holding himself or herself out as
314 having certification in a specialty that the advanced practice
315 registered nurse has not received.

316 12. Failing to comply with the requirements of ss. 381.026
317 and 381.0261 related to providing patients with information
318 about their rights and how to file a complaint.

319 13. Providing deceptive or fraudulent expert witness
320 testimony related to advanced or specialized nursing practice.

321 Section 6. This act shall take effect July 1, 2019.