

By the Council for Healthy Communities and Representatives
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1 A bill to be entitled
2 An act relating to health care; amending s.
3 456.031, F.S.; providing an alternative by
4 which licensees may comply with a general
5 requirement that they take domestic violence
6 education courses; amending s. 456.033, F.S.;
7 providing an alternative by which licensees may
8 comply with a general requirement that they
9 take AIDS/HIV education courses; amending ss.
10 458.319, 459.008, and 765.102, F.S.; conforming
11 terminology relating to palliative care;
12 amending s. 765.101, F.S.; redefining the term
13 "end-stage condition" with respect to health
14 care advance directives; creating s. 765.1025,
15 F.S.; prescribing the content and suitability
16 of palliative care; amending s. 765.1103, F.S.;
17 requiring specified health care providers,
18 health care practitioners, and health care
19 facilities to comply with patient requests for
20 pain management and palliative care; amending
21 s. 765.205, F.S.; prescribing the standards of
22 decisionmaking to be used in certain
23 circumstances by health care surrogates,
24 persons who have durable powers of attorney for
25 health care, and proxy decisionmakers; amending
26 s. 765.401, F.S.; prescribing the standards of
27 decisionmaking to be used in certain
28 circumstances by proxy decisionmakers;
29 providing an effective date.

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

1 Section 1. Subsection (3) of section 456.031, Florida
2 Statutes, is amended to read:

3 456.031 Requirement for instruction on domestic
4 violence.--

5 (3)(a) In lieu of completing a course as required in
6 subsection (1), a licensee or certificateholder may complete a
7 course in end-of-life care and palliative ~~health~~ care, if the
8 licensee or certificateholder has completed an approved
9 domestic violence course in the immediately preceding
10 biennium.

11 (b) In lieu of completing a course as required by
12 subsection (1), a person licensed under chapter 466, who has
13 completed an approved domestic violence education course in
14 the immediately preceding 2 years may complete a course
15 approved by the Board of Dentistry.

16 Section 2. Subsection (9) of section 456.033, Florida
17 Statutes, is amended to read:

18 456.033 Requirement for instruction for certain
19 licensees on human immunodeficiency virus and acquired immune
20 deficiency syndrome.--

21 (9)(a) In lieu of completing a course as required in
22 subsection (1), the licensee may complete a course in
23 end-of-life care and palliative ~~health~~ care, so long as the
24 licensee completed an approved AIDS/HIV course in the
25 immediately preceding biennium.

26 (b) In lieu of completing a course as required by
27 subsection (1), a person licensed under chapter 466 who has
28 completed an approved AIDS/HIV course in the immediately
29 preceding 2 years may complete a course approved by the Board
30 of Dentistry.

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1 Section 3. Subsection (4) of section 458.319, Florida
2 Statutes, is amended to read:

3 458.319 Renewal of license.--

4 (4) Notwithstanding the provisions of s. 456.033, a
5 physician may complete continuing education on end-of-life
6 care and palliative ~~health~~ care in lieu of continuing
7 education in AIDS/HIV, if that physician has completed the
8 AIDS/HIV continuing education in the immediately preceding
9 biennium.

10 Section 4. Subsection (5) of section 459.008, Florida
11 Statutes, is amended to read:

12 459.008 Renewal of licenses and certificates.--

13 (5) Notwithstanding the provisions of s. 456.033, an
14 osteopathic physician may complete continuing education on
15 end-of-life and palliative ~~health~~ care in lieu of continuing
16 education in AIDS/HIV, if that physician has completed the
17 AIDS/HIV continuing education in the immediately preceding
18 biennium.

19 Section 5. Subsection (4) of section 765.101, Florida
20 Statutes, is amended to read:

21 765.101 Definitions.--As used in this chapter:

22 (4) "End-stage condition" means a condition that is
23 caused by injury, disease, or illness which has resulted in
24 progressively severe and permanent deterioration, indicated by
25 incapacity and complete physical dependency, and for which the
26 patient or resident, or his or her authorized representative,
27 would consider life-prolonging treatment to be more of a
28 burden than a benefit, ~~to a reasonable degree of medical~~
29 ~~certainty, treatment of the irreversible condition would be~~
30 ~~medically ineffective.~~

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1 Section 6. Subsection (4) of section 765.102, Florida
2 Statutes, is amended to read:

3 765.102 Legislative findings and intent.--

4 (4) The Legislature recognizes the need for all health
5 care professionals to rapidly increase their understanding of
6 end-of-life and palliative ~~health~~ care. Therefore, the
7 Legislature encourages the professional regulatory boards to
8 adopt appropriate standards and guidelines regarding
9 end-of-life care and pain management and encourages
10 educational institutions established to train health care
11 professionals and allied health professionals to implement
12 curricula to train such professionals to provide end-of-life
13 care, including pain management and palliative care.

14 Section 7. Section 765.1025, Florida Statutes, is
15 created to read:

16 765.1025 Palliative care.--For purposes of this
17 chapter:

18 (1) Palliative care is the comprehensive management of
19 the physical, psychological, social, spiritual, and
20 existential needs of patients. Palliative care is especially
21 suited to the care of persons who have incurable, progressive
22 illness.

23 (2) Palliative care must include:

24 (a) An opportunity to discuss and plan for end-of-life
25 care.

26 (b) Assurance that physical and mental suffering will
27 be carefully attended to.

28 (c) Assurance that preferences for withholding and
29 withdrawing life-sustaining interventions will be honored.

30 (d) Assurance that the personal goals of the dying
31 person will be addressed.

1 (e) Assurance that the dignity of the dying person
2 will be a priority.

3 (f) Assurance that health care providers will not
4 abandon the dying person.

5 (g) Assurance that the burden to family and others
6 will be addressed.

7 (h) Assurance that advance directives for care will be
8 respected regardless of the location of care.

9 (i) Assurance that organizational mechanisms are in
10 place to evaluate the availability and quality of end-of-life
11 and palliative care services, including the removal of
12 administrative and regulatory barriers.

13 (j) Assurance that necessary health care services will
14 be provided and that relevant reimbursement policies are
15 available.

16 (k) Assurance that the goals expressed in paragraphs
17 (a)-(j) will be accomplished in a culturally appropriate
18 manner.

19 Section 8. Subsection (2) of section 765.1103, Florida
20 Statutes, is amended to read:

21 765.1103 Pain management and palliative care.--

22 (2) Health care providers and practitioners regulated
23 under chapter 458, chapter 459, or chapter 464 must, as
24 appropriate, comply with a request for pain management or
25 palliative care from a patient under their care or, for an
26 incapacitated patient under their care, from a surrogate,
27 proxy, guardian, or other representative permitted to make
28 health care decisions for the incapacitated patient.

29 Facilities regulated under chapter 400 or chapter 395 must
30 comply with the pain management or palliative care measures
31 ordered by the patient's physician.~~When the patient is~~

1 ~~receiving care as an admitted patient of a facility or a~~
2 ~~provider or is a subscriber of a health care facility, health~~
3 ~~care provider, or health care practitioner regulated under~~
4 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~
5 ~~464, or chapter 641, such facility, provider, or practitioner~~
6 ~~must, when appropriate, comply with a request for pain~~
7 ~~management or palliative care from a capacitated patient or an~~
8 ~~incapacitated patient's health care surrogate or proxy,~~
9 ~~court-appointed guardian as provided in chapter 744, or~~
10 ~~attorney in fact as provided in chapter 709. The~~
11 ~~court-appointed guardian or attorney in fact must have been~~
12 ~~delegated authority to make health care decisions on behalf of~~
13 ~~the patient.~~

14 Section 9. Paragraph (b) of subsection (1) of section
15 765.205, Florida Statutes, is amended to read:

16 765.205 Responsibility of the surrogate.--

17 (1) The surrogate, in accordance with the principal's
18 instructions, unless such authority has been expressly limited
19 by the principal, shall:

20 (b) Consult expeditiously with appropriate health care
21 providers to provide informed consent, and make only health
22 care decisions for the principal which he or she believes the
23 principal would have made under the circumstances if the
24 principal were capable of making such decisions. This
25 substituted-judgment standard is the preferred standard of
26 decisionmaking to be used by health care surrogates, persons
27 who have durable powers of attorney for health care, and proxy
28 decisionmakers. However, if there is no indication of what the
29 principal would have chosen, the surrogate, the person who has
30 the durable power of attorney for health care, or the proxy
31 decisionmaker may use a best-interest standard in deciding

1 that proposed treatments are to be withheld or that treatments
2 currently in effect are to be withdrawn.

3 Section 10. Subsections (2) and (3) of section
4 765.401, Florida Statutes, are amended to read:

5 765.401 The proxy.--

6 (2) Any health care decision made under this part must
7 be based on the proxy's informed consent and on the decision
8 the proxy reasonably believes the patient would have made
9 under the circumstances. This substituted-judgment standard is
10 the preferred standard of decisionmaking to be used by a
11 proxy. However, if there is no indication of what the patient
12 would have chosen, the proxy may use a best-interest standard
13 in deciding that proposed treatments are to be withheld or
14 that treatments currently in effect are to be withdrawn.

15 (3) Before exercising the incapacitated patient's
16 rights to select or decline health care, the proxy must comply
17 with the provisions of ss. 765.205 and 765.305, except that a
18 proxy's decision to withhold or withdraw life-prolonging
19 procedures must be supported by clear and convincing evidence
20 that the decision would have been the one the patient would
21 have chosen had the patient been competent or, if there is no
22 indication of what the patient would have chosen, that the
23 decision is in the patient's best interest.

24 Section 11. This act shall take effect July 1, 2001.
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