

By Senator Klein

28-775A-01

1                                   A bill to be entitled  
2           An act relating to health care; amending s.  
3           456.031, F.S.; allowing licensees under ch.  
4           466, F.S., to complete a course designated by  
5           the Board of Dentistry, rather than a course in  
6           end-of-life care and palliative care, as an  
7           alternative to completing a domestic-abuse  
8           course; amending s. 456.033, F.S.; allowing  
9           licensees under ch. 466, F.S., to complete a  
10          course designated by the Board of Dentistry,  
11          rather than a course in end-of-life care and  
12          palliative care, as an alternative to  
13          completing certain instruction on human  
14          immunodeficiency virus and acquired immune  
15          deficiency syndrome; amending s. 765.101, F.S.;  
16          redefining the term "end-stage condition";  
17          amending s. 765.102, F.S.; prescribing the  
18          content and suitability of palliative care;  
19          amending s. 765.205, F.S.; prescribing the  
20          standards of decision-making which are to be  
21          used in certain circumstances by health  
22          surrogates, by persons who have durable powers  
23          of attorney for health care, and by proxy  
24          decisionmakers; amending s. 765.401, F.S.;  
25          prescribing the standards of decisionmaking  
26          which are to be used in certain circumstances  
27          by proxies; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Section 456.031, Florida Statutes, is  
2 amended to read:

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

5           (1)(a) The appropriate board shall require each person  
6 licensed or certified under chapter 458, chapter 459, part I  
7 of chapter 464, chapter 466, chapter 467, chapter 490, or  
8 chapter 491 to complete a 1-hour continuing education course,  
9 approved by the board, on domestic violence, as defined in s.  
10 741.28, as part of biennial relicensure or recertification.  
11 The course shall consist of information on the number of  
12 patients in that professional's practice who are likely to be  
13 victims of domestic violence and the number who are likely to  
14 be perpetrators of domestic violence, screening procedures for  
15 determining whether a patient has any history of being either  
16 a victim or a perpetrator of domestic violence, and  
17 instruction on how to provide such patients with information  
18 on, or how to refer such patients to, resources in the local  
19 community, such as domestic violence centers and other  
20 advocacy groups, that provide legal aid, shelter, victim  
21 counseling, batterer counseling, or child protection services.

22           (b) Each such licensee or certificateholder shall  
23 submit confirmation of having completed such course, on a form  
24 provided by the board, when submitting fees for each biennial  
25 renewal.

26           (c) The board may approve additional equivalent  
27 courses that may be used to satisfy the requirements of  
28 paragraph (a). Each licensing board that requires a licensee  
29 to complete an educational course pursuant to this subsection  
30 may include the hour required for completion of the course in  
31 the total hours of continuing education required by law for

1 such profession unless the continuing education requirements  
2 for such profession consist of fewer than 30 hours biennially.

3 (d) Any person holding two or more licenses subject to  
4 the provisions of this subsection shall be permitted to show  
5 proof of having taken one board-approved course on domestic  
6 violence, for purposes of relicensure or recertification for  
7 additional licenses.

8 (e) Failure to comply with the requirements of this  
9 subsection shall constitute grounds for disciplinary action  
10 under each respective practice act and under s. 456.072(1)(k).  
11 In addition to discipline by the board, the licensee shall be  
12 required to complete such course.

13 (2) The board shall also require, as a condition of  
14 granting a license under any chapter specified in paragraph  
15 (1)(a), that each applicant for initial licensure under the  
16 appropriate chapter complete an educational course acceptable  
17 to the board on domestic violence which is substantially  
18 equivalent to the course required in subsection (1). An  
19 applicant who has not taken such course at the time of  
20 licensure shall, upon submission of an affidavit showing good  
21 cause, be allowed 6 months to complete such requirement.

22 (3) In lieu of completing a course as required in  
23 subsection (1), a licensee or certificateholder may complete a  
24 course in end-of-life care and palliative health care, if the  
25 licensee or certificateholder has completed an approved  
26 domestic violence course in the immediately preceding  
27 biennium. In lieu of completing a course as required in  
28 subsection (1), a person licensed under chapter 466 may  
29 complete a course designated by the Board of Dentistry, if the  
30 licensee has completed an approved domestic-violence course in  
31 the immediately preceding biennium.

1           (4) Each board may adopt rules to carry out the  
2 provisions of this section.

3           (5) Each board shall report to the President of the  
4 Senate, the Speaker of the House of Representatives, and the  
5 chairs of the appropriate substantive committees of the  
6 Legislature by March 1 of each year as to the implementation  
7 of and compliance with the requirements of this section.

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

10           456.033 Requirement for instruction for certain  
11 licensees on human immunodeficiency virus and acquired immune  
12 deficiency syndrome.--

13           (9) In lieu of completing a course as required in  
14 subsection (1), the licensee may complete a course in  
15 end-of-life care and palliative health care, so long as the  
16 licensee completed an approved AIDS/HIV course in the  
17 immediately preceding biennium. In lieu of completing a  
18 course as required in subsection (1), a person licensed under  
19 chapter 466 may complete a course designated by the Board of  
20 Dentistry, as long as the licensee has completed an approved  
21 AIDS/HIV course in the immediately preceding biennium.

22           Section 3. Subsection (4) of section 765.101, Florida  
23 Statutes, is amended to read:

24           765.101 Definitions.--As used in this chapter:

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

1 ~~certainty, treatment of the irreversible condition would be~~  
2 ~~medically ineffective.~~

3 Section 4. Present subsection (5) of section 765.102,  
4 Florida Statutes, is redesignated as subsection (6), and a new  
5 subsection (5) is added to that section, to read:

6 765.102 Legislative findings and intent.--

7 (5) Palliative care is the comprehensive management of  
8 the physical, psychological, social, spiritual, and  
9 existential needs of patients. It is especially suited to the  
10 care of people who have incurable, progressive illness.

11 Palliative care must include:

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

14 (b) Assurance that physical and mental suffering will  
15 be carefully attended to.

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

18 (d) Assurance that the personal goals of the dying  
19 person will be addressed.

20 (e) Assurance that the dignity of the dying person  
21 will be a priority.

22 (f) Assurance that healthcare providers will not  
23 abandon the dying person.

24 (g) Assurance that the burden to family and others  
25 will be addressed.

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

28 (i) Assurance that organizational mechanisms are in  
29 place to evaluate the availability and quality of end-of-life  
30 and palliative care services, including the removal of  
31 administrative and regulatory barriers.

1           (j) Assurance that necessary healthcare services will  
2 be provided and that relevant reimbursement policies are  
3 available.

4           (k) Assurance that the goals expressed in paragraphs  
5 (a)-(j) will be accomplished in a culturally appropriate  
6 manner.

7           Section 5. Subsection (1) of section 765.205, Florida  
8 Statutes, is amended to read:

9           765.205 Responsibility of the surrogate.--

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

13           (a) Have authority to act for the principal and to  
14 make all health care decisions for the principal during the  
15 principal's incapacity.

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

1 (c) Provide written consent using an appropriate form  
2 whenever consent is required, including a physician's order  
3 not to resuscitate.

4 (d) Be provided access to the appropriate medical  
5 records of the principal.

6 (e) Apply for public benefits, such as Medicare and  
7 Medicaid, for the principal and have access to information  
8 regarding the principal's income and assets and banking and  
9 financial records to the extent required to make application.  
10 A health care provider or facility may not, however, make such  
11 application a condition of continued care if the principal, if  
12 capable, would have refused to apply.

13 Section 6. Subsections (2) and (3) of section 765.401,  
14 Florida Statutes, are amended to read:

15 765.401 The proxy.--

16 (2) Any health care decision made under this part must  
17 be based on the proxy's informed consent and on the decision  
18 the proxy reasonably believes the patient would have made  
19 under the circumstances. This substituted-judgment standard is  
20 the preferred standard of decisionmaking to be used by a  
21 proxy, but if there is no indication of what the patient would  
22 have chosen, the proxy may use a best-interest standard in  
23 deciding that proposed treatments are to be withheld or that  
24 treatments currently in effect are to be withdrawn.

25 (3) Before exercising the incapacitated patient's  
26 rights to select or decline health care, the proxy must comply  
27 with the provisions of ss. 765.205 and 765.305, except that a  
28 proxy's decision to withhold or withdraw life-prolonging  
29 procedures must be supported by clear and convincing evidence  
30 that the decision would have been the one the patient would  
31 have chosen had the patient been competent or, if there is no

1 indication of what the patient would have chosen, that the  
2 decision is in the patient's best interest.

3 Section 7. This act shall take effect July 1, 2001.

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6 SENATE SUMMARY

7 Allows licensees under ch. 466, F.S., to complete a  
8 course designated by the Board of Dentistry, rather than  
9 a course in end-of-life care and palliative care, as an  
10 alternative to completing a domestic-abuse course. Allows  
11 licensees under ch. 466, F.S., to complete a course  
12 designated by the Board of Dentistry, rather than a  
13 course in end-of-life care and palliative care, as an  
14 alternative to completing certain instruction on  
15 HIV/AIDS. Redefines the term "end-stage condition."  
16 Prescribes the content of palliative care and states the  
17 circumstances for which that type of care is most  
18 suitable. Prescribes the standards of decisionmaking  
19 which are to be used in certain circumstances by health  
20 surrogates, by persons who have durable powers of  
21 attorney for health care, and by proxy decisionmakers.  
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