

By the Committee on Health, Aging and Long-Term Care; and
Senator Klein

317-1806-01

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 palative, and hospice care services, including the evaluation
31 of 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. If there is
21 no indication of what the principal would have chosen, the
22 surrogate, the person who has the durable power of attorney
23 for health care, or the proxy decisionmaker may use a
24 best-interest standard in deciding that proposed treatments
25 are to be withheld or that treatments currently in effect are
26 to be withdrawn.

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

30 (d) Be provided access to the appropriate medical
31 records of the principal.

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

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

10 765.401 The proxy.--

11 (2) Any health care decision made under this part must
12 be based on the proxy's informed consent and on the decision
13 the proxy reasonably believes the patient would have made
14 under the circumstances. If there is no indication of what the
15 patient would have chosen, the proxy may use a best-interest
16 standard in deciding that proposed treatments are to be
17 withheld or that treatments currently in effect are to be
18 withdrawn.

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

28 Section 7. This act shall take effect July 1, 2001.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2156

CS for SB 2156 amends the bill to provide that palliative care include hospice care services and the evaluation of administrative and regulatory barriers. The bill is also amended to delete the original language that the substituted-judgment standard is the preferred standard of decisionmaking for health care surrogates and proxies.