

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

308-1939-01

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 and by proxy decisionmakers;

23 amending s. 765.401, F.S.; prescribing the

24 standards of decisionmaking which are to be

25 used in certain circumstances by proxies;

26 providing an effective date.

27

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

29

30 Section 1. Section 456.031, Florida Statutes, is

31 amended to read:

1 456.031 Requirement for instruction on domestic
2 violence.--

3 (1)(a) The appropriate board shall require each person
4 licensed or certified under chapter 458, chapter 459, part I
5 of chapter 464, chapter 466, chapter 467, chapter 490, or
6 chapter 491 to complete a 1-hour continuing education course,
7 approved by the board, on domestic violence, as defined in s.
8 741.28, as part of biennial relicensure or recertification.

9 The course shall consist of information on the number of
10 patients in that professional's practice who are likely to be
11 victims of domestic violence and the number who are likely to
12 be perpetrators of domestic violence, screening procedures for
13 determining whether a patient has any history of being either
14 a victim or a perpetrator of domestic violence, and
15 instruction on how to provide such patients with information
16 on, or how to refer such patients to, resources in the local
17 community, such as domestic violence centers and other
18 advocacy groups, that provide legal aid, shelter, victim
19 counseling, batterer counseling, or child protection services.

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

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

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

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

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

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

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

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

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

8 456.033 Requirement for instruction for certain
9 licensees on human immunodeficiency virus and acquired immune
10 deficiency syndrome.--

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

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

22 765.101 Definitions.--As used in this chapter:

23 (4) "End-stage condition" means an irreversible ~~a~~
24 condition that is caused by injury, disease, or illness which
25 has resulted in progressively severe and permanent
26 deterioration, ~~indicated by incapacity and complete physical~~
27 ~~dependency,~~ and for which, to a reasonable degree of medical
28 probability ~~certainty~~, treatment of the irreversible condition
29 would be ~~medically~~ ineffective.

30
31

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

4 765.102 Legislative findings and intent.--

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

9 Palliative care must include:

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

12 (b) Assurance that physical and mental suffering will
13 be carefully attended to.

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

16 (d) Assurance that the personal goals of the dying
17 person will be addressed.

18 (e) Assurance that the dignity of the dying person
19 will be a priority.

20 (f) Assurance that healthcare providers will not
21 abandon the dying person.

22 (g) Assurance that the burden to family and others
23 will be addressed.

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

26 (i) Assurance that organizational mechanisms are in
27 place to evaluate the availability and quality of end-of-life,
28 palative, and hospice care services, including the evaluation
29 of administrative and regulatory barriers.

30
31

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 may consider the patient's best interest in deciding
23 that proposed treatments are to be withheld or that treatments
24 currently in effect are to be withdrawn.

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

28 (d) Be provided access to the appropriate medical
29 records of the principal.

30 (e) Apply for public benefits, such as Medicare and
31 Medicaid, for the principal and have access to information

1 regarding the principal's income and assets and banking and
2 financial records to the extent required to make application.
3 A health care provider or facility may not, however, make such
4 application a condition of continued care if the principal, if
5 capable, would have refused to apply.

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

8 765.401 The proxy.--

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

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

26 Section 7. This act shall take effect July 1, 2001.
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 2156

Redefines end-stage condition in chapter 765, F.S., to be a condition that has resulted in progressively severe and permanent deterioration and for which, treatment of the condition would be ineffective to a reasonable degree of medical probability.

Amends the statutory responsibilities of health care surrogates and proxies under chapter 765, F.S. to provide that absent patient intent, the surrogate or proxy may consider the patient's best interest in deciding whether to withhold or withdraw treatment.