

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. 765.1103,
16 F.S.; directing certain health care providers
17 and practitioners to comply with a request for
18 pain management or palliative care from a
19 patient under certain circumstances; amending
20 s. 765.101, F.S.; redefining the term
21 "end-stage condition"; amending s. 765.102,
22 F.S.; prescribing the content and suitability
23 of palliative care; amending s. 765.205, F.S.;
24 prescribing the standards of decision-making
25 which are to be used in certain circumstances
26 by health surrogates and by proxy
27 decisionmakers; amending s. 765.401, F.S.;
28 prescribing the standards of decisionmaking
29 which are to be used in certain circumstances
30 by proxies; providing an effective date.
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1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Section 456.031, Florida Statutes, is
4 amended to read:

5 456.031 Requirement for instruction on domestic
6 violence.--

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

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

28 (c) The board may approve additional equivalent
29 courses that may be used to satisfy the requirements of
30 paragraph (a). Each licensing board that requires a licensee
31 to complete an educational course pursuant to this subsection

1 may include the hour required for completion of the course in
2 the total hours of continuing education required by law for
3 such profession unless the continuing education requirements
4 for such profession consist of fewer than 30 hours biennially.

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

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

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

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

1 licensee has completed an approved domestic-violence course in
2 the immediately preceding biennium.

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

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

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

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

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

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

26 765.101 Definitions.--As used in this chapter:

27 (4) "End-stage condition" means an irreversible a
28 condition that is caused by injury, disease, or illness which
29 has resulted in progressively severe and permanent
30 deterioration, indicated by incapacity and complete physical
31 dependency,and for which, to a reasonable degree of medical

1 ~~probability certainty~~, treatment of the irreversible condition
2 would be ~~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 (2) of section 765.1103, Florida
8 Statutes, is amended to read:

9 765.1103 Pain management and palliative care.--

10 (2) Health care providers and practitioners regulated
11 under chapter 458, chapter 459, or chapter 464 must, as
12 appropriate, comply with a request for pain management or
13 palliative care from a patient under their care or, for an
14 incapacitated patient under their care, from a surrogate,
15 proxy, guardian, or other representative permitted to make
16 health care decisions for the incapacitated patient.

17 Facilities regulated under chapter 400 or chapter 395 must
18 comply with the pain management or palliative care measures
19 ordered by the patient's physician.~~When the patient is~~
20 ~~receiving care as an admitted patient of a facility or a~~
21 ~~provider or is a subscriber of a health care facility, health~~
22 ~~care provider, or health care practitioner regulated under~~
23 ~~chapter 395, chapter 400, chapter 458, chapter 459, chapter~~
24 ~~464, or chapter 641, such facility, provider, or practitioner~~
25 ~~must, when appropriate, comply with a request for pain~~
26 ~~management or palliative care from a capacitated patient or an~~
27 ~~incapacitated patient's health care surrogate or proxy,~~
28 ~~court-appointed guardian as provided in chapter 744, or~~
29 ~~attorney in fact as provided in chapter 709. The~~
30 ~~court-appointed guardian or attorney in fact must have been~~
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1 ~~delegated authority to make health care decisions on behalf of~~
2 ~~the patient.~~

3 Section 6. Subsection (1) of section 765.205, Florida
4 Statutes, is amended to read:

5 765.205 Responsibility of the surrogate.--

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

9 (a) Have authority to act for the principal and to
10 make all health care decisions for the principal during the
11 principal's incapacity.

12 (b) Consult expeditiously with appropriate health care
13 providers to provide informed consent, and make only health
14 care decisions for the principal which he or she believes the
15 principal would have made under the circumstances if the
16 principal were capable of making such decisions. If there is
17 no indication of what the principal would have chosen, the
18 surrogate may consider the patient's best interest in deciding
19 that proposed treatments are to be withheld or that treatments
20 currently in effect are to be withdrawn.

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

24 (d) Be provided access to the appropriate medical
25 records of the principal.

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

3 Section 7. Subsections (2) and (3) of section 765.401,
4 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. If there is no indication of what the
10 patient would have chosen, the proxy may consider the
11 patient's best interest in deciding that proposed treatments
12 are to be withheld or that treatments currently in effect are
13 to be withdrawn.

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

23 Section 8. This act shall take effect July 1, 2001.
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