

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1820  
 SPONSOR: Senator Margolis  
 SUBJECT: Practice of Psychology  
 DATE: March 29, 2003      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Unfavorable
2.	_____	_____	CJ	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill revises the “practice of psychology” to include the prescription and administration of drugs, including, but not limited to, controlled substances, if the licensed psychologist is certified to prescribe drugs under s. 490.0146, F.S. The bill creates s. 490.0146, F.S., to specify certification requirements for Florida-licensed psychologists to have prescriptive authority as part of their practice. The Board of Psychology must certify licensed, doctoral-level psychologists to prescribe, administer, and dispense drugs who meet certification requirements in the bill. Each prescription issued by a psychologist who is certified to prescribe must comply with all applicable state and federal laws. Records of all prescriptions issued by the psychologist must be maintained in patient records. Each psychologist certified to prescribe controlled substances must timely file with the board all individual registrations and numbers issued by the federal Drug Enforcement Administration (DEA).

The Board of Psychology must annually transmit to the Board of Pharmacy a list of psychologists certified to prescribe which contains information specified in the bill. The Board of Psychology must establish, by rule, criteria for disciplining, suspending, or revoking the prescriptive authority of a psychologist certified to prescribe. The Board of Psychology may prescribe standards for education, training, rehabilitation, fines, reprimand, or restriction of practice of psychologists who are certified to prescribe and for the suspension or revocation of a psychologist’s prescriptive authority.

The bill authorizes advanced registered nurse practitioners to perform acts of psychological practice, in addition to, medical acts as provided by current law, under the general supervision of a medical physician, osteopathic physician, dentist, or psychologist who is certified to prescribe within the framework of standing protocols which identify the medical acts or acts of psychological practice to be performed and the conditions for their performance. The bill revises

the definition of the “practice of practical nursing” to authorize practical nurses to administer treatments and medications under the direction of a licensed psychologist who is certified to prescribe drugs.

This bill amends sections 490.003, 458.348, 464.003, 464.012, and 893.02, Florida Statutes.

This bill creates s. 490.0146, F.S., and reenacts s. 775.051, F.S.

## **II. Present Situation:**

### **Psychology and Prescriptive Authority**

Chapter 490, Florida Statutes, provides for the regulation of the practice of psychologists by the Board of Psychology and for the regulation of school psychologists by the Department of Health. The “practice of psychology” is defined, in part, to mean the observation, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health.

In 1997, the General Accounting Office (GAO) examined the cost effectiveness of a military program that authorized military psychologists to prescribe certain psychotropic medications after completing specified training and under specified conditions pursuant to the Psychopharmacology Demonstration Project (PDP).<sup>1</sup> The 1997 report concluded that the Military Health Services System did not need any prescribing psychologists or any other additional mental health providers authorized to prescribe psychotropic medication. The report compared the training of psychiatrists and psychologists and noted that psychologists complete 6 years of graduate school leading to a doctorate degree and obtain 1 to 2 years of postdoctoral clinical experience. The report noted that psychologists are trained in theories of human development and behavior and that psychologists rely primarily on the behavior a patient displays to diagnose and treat mental conditions rather than the underlying medical conditions which may be associated with the mental conditions. The report noted that, to practice medicine, psychiatrists complete 4 years of medical school and a 1-year clinical internship during which they are trained to evaluate disease and to perform general surgery. Psychiatrists then complete a 3-year psychiatric residency to evaluate and treat mental conditions and physical diseases associated with them.

In 1999 the GAO examined the use and performance of ten Psychopharmacology Demonstration Project graduates.<sup>2</sup> The report describes how such graduates have been integrated into the Military Health System and provides information on the quality of care they provide to military personnel and beneficiaries. The report discussed the effect that the graduates have on medical readiness, and compares the costs of the program graduates to those of other military psychologists and psychiatrists. The report notes that the graduates were well integrated at their

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<sup>1</sup> See GAO Report 97-83, “Defense Health Care - Need For More Prescribing Psychologists Is Not Adequately Justified” April 1997, United State General Accounting Office.

<sup>2</sup> See GAO Report 99-98, “Prescribing Psychologists - DOD Demonstration Participants Perform Well But Have Little Effect on Readiness or Costs” June 1999, United States General Accounting Office.

assigned military treatment facilities. Such graduates served in positions of authority and treated a variety of mental health patients, prescribed from comprehensive lists of drugs or formularies, and carried patient caseloads comparable to those of psychiatrists and psychologists at the same hospitals and clinics. At assigned locations, the clinical supervisors, providers, and officials complimented the quality of patient care provided by the graduates. The report notes that the granting of drug prescribing authority to 10 military psychologists cannot substantially affect the medical readiness of an organization with 800 psychiatrists and psychologists. The report indicates that the graduate's care reduced the time patients must wait for treatment and increased the number of personnel and dependents who can be treated for illnesses requiring psychotropic medications. The GAO concludes that the Department of Defense will spend somewhat more on these 10 prescribing psychologists than it would have spent to provide similar services without prescribing psychologists. The report indicates that due to the department's higher training costs, it would spend more per PDP graduate than it would spend on a mix of psychiatrists and psychologists who would treat patients in the absence of the PDP graduates.

At least one state (New Mexico) has authorized psychologists to prescribe drugs.<sup>3</sup> Legislation has been introduced in several states seeking prescriptive authority for psychologists.

### **Nursing**

Advanced registered nurse practitioners may perform all duties of a registered nurse and advanced level nursing in accordance with established protocols, including managing selected medical problems, monitoring and altering drug therapies, initiating appropriate therapies for certain conditions, performing physical examinations, ordering and evaluating diagnostic tests, ordering physical and occupational therapy, and initiating and monitoring therapies for certain uncomplicated acute illnesses.

Chapter 464, F.S., requires the Board of Nursing to adopt rules authorizing advanced registered nurse practitioners to perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee. Advanced registered nurse practitioners may perform medical acts under the general supervision of a medical physician, osteopathic physician, or dentist within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. The Board of Nursing and the Board of Medicine have filed identical administrative rules setting forth standards for the protocols<sup>4</sup> which establish obligations on medical physicians, osteopathic physicians, and dentists who enter into protocol relationships with advanced registered nurse practitioners. The Board of Osteopathic Medicine and the Board of Dentistry who have regulatory jurisdiction over osteopathic physicians and dentists, respectively, are not required to adopt administrative rules regarding the standards for advanced registered nurse practitioner protocols. Although advanced registered nurse practitioners may prescribe medications in accordance with a protocol, they cannot prescribe controlled substances.

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<sup>3</sup> See House Bill 170, New Mexico, 2002 Regular Session. Also see chapter 26 Art. 1 NMSA 1978; chapter 30 Art. 31 NMSA 1978.

<sup>4</sup> See Rules 64B-4.010 and 64B-35.002, Florida Administrative Code.

## **Controlled Substances**

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act. The chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances. Substances in Schedule I have a high potential for abuse and have no currently accepted medical use in the United States. Schedule II drugs have a high potential for abuse and a severely restricted medical use. Cocaine and morphine are examples of Schedule II drugs. Schedule III controlled substances have less potential for abuse than Schedule I or Schedule II substances and have some accepted medical use. Substances listed in Schedule III include anabolic steroids, codeine, and derivatives of barbituric acid. Schedule IV and Schedule V substances have a low potential for abuse, compared to substances in Schedules I, II, and III, and currently have accepted medical use. Substances in Schedule IV include phenobarbital, librium, and valium. Substances in Schedule V include certain stimulants and narcotic compounds.

Section 893.02, F.S., defines practitioner to mean a licensed medical physician, a licensed dentist, a licensed veterinarian, a licensed osteopathic physician, a licensed naturopathic physician, or a licensed podiatrist, if such practitioner holds a valid federal controlled substance registry number. The prescribing of controlled substances is a privilege that is separate from the regulation of the practice of the prescribing practitioner.

Section 893.05, F.S., allows a practitioner, in good faith and in the course of his or her professional practice only to prescribe, administer, dispense, mix, or otherwise prepare a controlled substance, or the practitioner may direct the administration of a controlled substance by a licensed nurse or an intern practitioner under his or her direction and supervision.

Section 893.04, F.S., authorizes a pharmacist, in good faith and in the course of professional practice only to dispense controlled substances upon a written or oral prescription under specified conditions. An oral prescription for controlled substances must be promptly reduced to writing by the pharmacist. The written prescription must be dated and signed by the prescribing practitioner on the day when issued. There must appear on the face of the prescription or written record for the controlled substance: the full name and address of the person for whom, or the owner of the animal for which, the controlled substance is dispensed; the full name and address of the prescribing practitioner and the prescriber's federal controlled substance registry number must be printed thereon; if the prescription is for an animal, the species of animal for which the controlled substance is prescribed; the name of the controlled substance prescribed and the strength, quantity, and directions for the use thereof; the number of the prescription, as recorded in the prescription files of the pharmacy in which it is filed; and the initials of the pharmacist filling the prescription and the date filled. Section 893.04(1)(d), F.S., requires the proprietor of the pharmacy in which a prescription for controlled substances is filled to retain the prescription on file for a period of 2 years. The chapter requires the original container in which a controlled substance is dispensed to bear a label with specified information.

### **III. Effect of Proposed Changes:**

The bill revises the "practice of psychology" to include the prescription and administration of drugs, including, but not limited to, controlled substances, if the licensed psychologist is certified

to prescribe drugs under s. 490.0146, F.S. The bill creates s. 490.0146, F.S., to specify certification requirements for Florida-licensed psychologists to have prescriptive authority as part of their practice.

Definitions are provided for: “prescription” to mean an order for a drug, laboratory test, or any medicine, device, or treatment, including, but not limited to, a controlled substance. “Prescriptive authority” means the authority to prescribe, administer, and dispense drugs, including, but not limited to, controlled substances, and other treatment procedures within the scope of practice of psychology, in accordance with rules adopted by the Board of Psychology. “Psychologist certified to prescribe” means a Florida-licensed, doctoral-level psychologist who has undergone specialized training, has passed an examination approved by the board, and has received from the board a certificate granting prescriptive authority, which certificate is current and has not been revoked or suspended.

The Board of Psychology must certify licensed, doctoral-level psychologists to prescribe, administer, and dispense drugs, including, but not limited to, controlled substances, in accordance with applicable state or federal laws. The board must adopt rules for reviewing educational and training credentials for the certification process in accordance with current standards of professional practice. The board may seek the advice of other state agencies that have relevant expertise in devising certification procedures and criteria.

In order to gain prescriptive authority a psychologist must apply to the Board of Psychology and demonstrate, by official transcript or other official evidence satisfactory to the board, that he or she: has completed a doctoral degree in psychology in accordance with s. 490.003(3), F.S.; holds a current Florida license to practice psychology; has completed an organized educational program of intensive didactic instruction, as defined by the board; has had supervised and relevant clinical experience sufficient to assure competency to treat patients under the direction of qualified practitioners, as determined by the board; and has passed a certification examination administered by the board and developed by a nationally recognized body approved by the board. The required didactic instruction must consist of the following core areas of instruction: neuroscience, pharmacology, psychopharmacology, physiology, pathophysiology, appropriate and relevant physical and laboratory assessment, and clinical pharmacotherapeutics.

The bill authorizes the Board of Psychology to adopt by rule a procedure for a psychologist to renew his or her prescriptive authority at license renewal. The psychologist seeking renewal of prescriptive authority must provide satisfactory evidence to the board of completion of 10 hours of continuing education relevant to prescriptive authority during the 2-year period preceding license renewal.

Each prescription issued by a psychologist who is certified to prescribe must comply with all applicable state and federal laws. Records of all prescriptions issued by the psychologist must be maintained in patient records. Each psychologist certified to prescribe controlled substances must timely file with the board all individual registrations and numbers issued by the federal Drug Enforcement Administration (DEA). The Board of Psychology must maintain current records of each psychologist who is certified to prescribe, including each registration and number issued by the federal DEA.

The Board of Psychology must annually transmit to the Board of Pharmacy a list of psychologists certified to prescribe which contains information specified in the bill. The Board of Psychology must notify the Board of Pharmacy when psychologists are added to or deleted from the list. The Board of Psychology must establish, by rule, criteria for disciplining, suspending, or revoking the prescriptive authority of a psychologist certified to prescribe. The Board of Psychology may prescribe standards for education, training, rehabilitation, fines, reprimand, or restriction of practice of psychologists who are certified to prescribe and for the suspension or revocation of a psychologist's prescriptive authority.

The bill authorizes advanced registered nurse practitioners to perform acts of psychological practice, in addition to, medical acts as provided by current law, under the general supervision of a medical physician, osteopathic physician, dentist, or psychologist who is certified to prescribe within the framework of standing protocols which identify the medical acts or acts of psychological practice to be performed and the conditions for their performance. The authority of the joint committee is expanded to identify and approve acts of psychological practice that an advanced registered nurse practitioner may perform pursuant to protocol under the supervision of a medical physician, osteopathic physician, dentist, or psychologist who is certified to prescribe.

The bill revises the definition of the "practice of practical nursing" to authorize practical nurses to administer treatments and medications under the direction of a licensed psychologist who is certified to prescribe drugs. The definition of "advanced or specialized nursing practice" is revised to authorize advanced registered nurse practitioners to perform acts under the general supervision of a psychologist who is certified to prescribe drugs within the framework of a standing protocol that identifies the medical acts to be performed and the conditions for their performance.

The bill amends s. 893.02, F.S., to expand the definition of "practitioner" in ch. 893, F.S., to include a Florida-licensed psychologist who is certified to prescribe drugs, for purposes of specifying who may prescribe controlled substances listed in ch. 893, F.S. The bill reenacts s. 775.051, F.S., relating to voluntary intoxication, for purposes of incorporating the amendments to s. 893.02, F.S.

The effective date of the bill is July 1, 2003.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, s. 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

To the extent the bill authorizes psychologists who meet specified requirements to prescribe drugs, including controlled substances, and to delegate specified tasks to be performed by licensed practical nurses and advanced registered nurse practitioners, their patients will benefit from the additional health care services.

**C. Government Sector Impact:**

The Department of Health will incur costs to implement the requirements of the bill that: require the Board of Psychology to administer an examination unless the contract with the national examination vendor specifies that the vendor must administer the examination; require, in effect, inspection of a psychologist's office who both prescribes and dispenses drugs<sup>5</sup>; require rulemaking by the Board of Psychology; and require review of applications for psychologists seeking certification to prescribe drugs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

On page 9, line 30, through page 10, line 2, of the bill, the definition of "advanced or specialized nursing practice" is revised to authorize advanced registered nurse practitioners to perform acts under the general supervision of a psychologist who is certified to prescribe drugs within the framework of a standing protocol that identifies the medical acts to be performed and the conditions for their performance. It is unclear whether the advanced registered nurse practitioner should also be authorized to perform "acts of psychological practice" to conform with other changes in the bill.

In effect, the bill authorizes a psychologist who has met specified requirements to perform medical acts of diagnosis and treatment, to the extent the bill authorizes a prescribing psychologist to delegate medical tasks in addition to prescribing psychologist's treatment to an advanced registered nurse practitioner pursuant to the framework of a protocol.

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<sup>5</sup> See s. 465.0276 (2)(a), F.S., which requires the dispensing practitioner to register with his or her professional licensing board and payment of a fee no greater than \$100.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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