

By Senator Margolis

35-354A-03

1                                   A bill to be entitled  
2           An act relating to the practice of psychology;  
3           amending s. 490.003, F.S.; redefining the term  
4           "practice of psychology" to include the  
5           prescription and administration of drugs,  
6           including, but not limited to, controlled  
7           substances, under certain circumstances;  
8           creating s. 490.0146, F.S.; providing  
9           requirements for and conditions to the  
10          prescription and administration of drugs,  
11          including controlled substances, by  
12          psychologists; defining terms; requiring  
13          certification; providing requirements for  
14          application for and renewal of prescriptive  
15          authority; providing prescribing practices;  
16          requiring the transmission of certain  
17          information to the Board of Pharmacy; providing  
18          rulemaking authority to establish grounds for  
19          discipline and for the suspension or revocation  
20          of prescriptive authority; amending s. 458.348,  
21          F.S.; revising references, to conform; amending  
22          s. 464.003, F.S.; redefining the term "practice  
23          of practical nursing" to include acts performed  
24          under the direction or supervision of a  
25          licensed psychologist certified to prescribe  
26          drugs; amending s. 464.012, F.S.; including  
27          psychological treatment under supervision of a  
28          licensed psychologist certified to prescribe  
29          drugs among those functions an advanced  
30          registered nurse practitioner may perform  
31          within the framework of an established

1 protocol; amending s. 893.02, F.S.; redefining  
2 the term "practitioner" as used in the Florida  
3 Comprehensive Drug Abuse Prevention and Control  
4 Act to include licensed psychologists certified  
5 to prescribe drugs; reenacting s. 775.051,  
6 F.S., relating to voluntary intoxication as a  
7 defense, to incorporate the amendment to s.  
8 893.02, F.S., in a reference thereto; providing  
9 an effective date.

10

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

12

13 Section 1. Subsection (4) of section 490.003, Florida  
14 Statutes, is amended to read:

15 490.003 Definitions.--As used in this chapter:

16 (4) "Practice of psychology" means the observations,  
17 description, evaluation, interpretation, and modification of  
18 human behavior, by the use of scientific and applied  
19 psychological principles, methods, and procedures, for the  
20 purpose of describing, preventing, alleviating, or eliminating  
21 symptomatic, maladaptive, or undesired behavior and of  
22 enhancing interpersonal behavioral health and mental or  
23 psychological health. The practice of psychology includes the  
24 prescription and administration of drugs, including, but not  
25 limited to, controlled substances, if the licensee is  
26 certified to prescribe drugs under s. 490.0146.The ethical  
27 practice of psychology includes, but is not limited to,  
28 psychological testing and the evaluation or assessment of  
29 personal characteristics such as intelligence, personality,  
30 abilities, interests, aptitudes, and neuropsychological  
31 functioning, including evaluation of mental competency to

1 manage one's affairs and to participate in legal proceedings;  
2 counseling, psychoanalysis, all forms of psychotherapy, sex  
3 therapy, hypnosis, biofeedback, and behavioral analysis and  
4 therapy; psychoeducational evaluation, therapy, remediation,  
5 and consultation; and use of psychological methods to diagnose  
6 and treat mental, nervous, psychological, marital, or  
7 emotional disorders, illness, or disability, alcoholism and  
8 substance abuse, and disorders of habit or conduct, as well as  
9 the psychological aspects of physical illness, accident,  
10 injury, or disability, including neuropsychological  
11 evaluation, diagnosis, prognosis, etiology, and treatment.

12 (a) Psychological services may be rendered to  
13 individuals, couples, families, groups, and the public without  
14 regard to place of service.

15 (b) The use of specific modalities within the practice  
16 of psychology is restricted to psychologists appropriately  
17 trained in the use of such modalities.

18 (c) The practice of psychology shall be construed  
19 within the meaning of this definition without regard to  
20 whether payment is requested or received for services  
21 rendered.

22 Section 2. Section 490.0146, Florida Statutes, is  
23 created to read:

24 490.0146 Prescription of drugs.--

25 (1) DEFINITIONS.--As used in this section, the term:

26 (a) "Prescription" means an order for a drug,  
27 laboratory test, or any medicine, device, or treatment,  
28 including, but not limited to, a controlled substance.

29 (b) "Prescriptive authority" means the authority to  
30 prescribe, administer, and dispense drugs, including, but not  
31 limited to, controlled substances, and other treatment

1 procedures within the scope of the practice of psychology, in  
2 accordance with rules adopted by the board.

3 (c) "Psychologist certified to prescribe" means a  
4 licensed, doctoral-level psychologist who has undergone  
5 specialized training, has passed an examination approved by  
6 the board, and has received from the board a certificate  
7 granting prescriptive authority, which certificate is current  
8 and has not been revoked or suspended.

9 (2) CERTIFICATION OF PRESCRIPTIVE AUTHORITY.--

10 (a) The board shall certify licensed, doctoral-level  
11 psychologists to prescribe, administer, and dispense drugs,  
12 including, but not limited to, controlled substances, in  
13 accordance with applicable state and federal laws.

14 (b) The board shall adopt rules for reviewing  
15 educational and training credentials for the certification  
16 process in accordance with current standards of professional  
17 practice.

18 (c) The board may seek the advice of other state  
19 agencies that have relevant expertise in devising  
20 certification procedures and criteria.

21 (3) APPLICATION FOR INITIAL PRESCRIPTIVE  
22 AUTHORITY.--In applying to the board for prescriptive  
23 authority, a psychologist shall demonstrate, by official  
24 transcript or other official evidence satisfactory to the  
25 board, that he or she:

26 (a) Has completed a doctoral degree in psychology in  
27 accordance with s. 490.003(3);

28 (b) Holds a current license to practice psychology in  
29 this state;

30 (c) Has completed an organized educational program of  
31 intensive didactic instruction, as defined by the board, which

1 consists of the following core areas of instruction:  
2 neuroscience, pharmacology, psychopharmacology, physiology,  
3 pathophysiology, appropriate and relevant physical and  
4 laboratory assessment, and clinical pharmacotherapeutics;  
5 (d) Has had supervised and relevant clinical  
6 experience sufficient to assure competency to treat patients  
7 under the direction of qualified practitioners, as determined  
8 by the board; and  
9 (e) Has passed a certification examination  
10 administered by the board and developed by a nationally  
11 recognized body approved by the board.  
12 (4) RENEWAL OF PRESCRIPTIVE AUTHORITY.--  
13 (a) The board shall establish, by rule, a procedure  
14 for renewing prescriptive authority at the time of or in  
15 conjunction with license renewal.  
16 (b) Each applicant for renewal of prescriptive  
17 authority must present evidence satisfactory to the board  
18 which demonstrates that the applicant has completed 10 hours  
19 of continuing education relevant to prescriptive authority  
20 during the biennium immediately preceding the date of  
21 application for licensure renewal.  
22 (5) PRESCRIBING PRACTICES.--  
23 (a) Each prescription issued by a psychologist  
24 certified to prescribe must comply with all applicable state  
25 and federal laws.  
26 (b) Records of all prescriptions issued by a  
27 psychologist certified to prescribe must be maintained in  
28 patient records.  
29 (6) CONTROLLED SUBSTANCES PRESCRIPTIVE AUTHORITY.--  
30 (a) Each psychologist certified to prescribe  
31 controlled substances shall timely file with the board all

1 individual registrations and numbers issued by the federal  
2 Drug Enforcement Administration.

3 (b) The board shall maintain current records of each  
4 psychologist certified to prescribe, including, but not  
5 limited to, each registration and number issued by the federal  
6 Drug Enforcement Administration.

7 (7) INTERACTION WITH THE BOARD OF PHARMACY.--

8 (a) The board shall transmit annually to the Board of  
9 Pharmacy a list of psychologists certified to prescribe which  
10 contains the following information:

11 1. The name of each psychologist.

12 2. Each psychologist's identification number assigned  
13 by the board.

14 3. The effective date of the psychologist's  
15 prescriptive authority.

16 (b) The board shall promptly forward to the Board of  
17 Pharmacy the names and titles of psychologists who are added  
18 to or deleted from the annual list of psychologists certified  
19 to prescribe.

20 (c) The board shall timely notify the Board of  
21 Pharmacy upon the termination, suspension, or reinstatement of  
22 a psychologist's prescriptive authority.

23 (8) DISCIPLINE; SUSPENSION OR REVOCATION OF  
24 PRESCRIPTIVE AUTHORITY.--The board shall establish, by rule,  
25 criteria for disciplining, suspending, or revoking the  
26 prescriptive authority of a psychologist certified to  
27 prescribe. The board may prescribe standards for education,  
28 training, rehabilitation, fines, reprimand, or restriction of  
29 practice of such psychologists and for the suspension or  
30 revocation of a psychologist's prescriptive authority.

31

1           Section 3. Paragraph (a) of subsection (1) and  
2 subsection (2) of section 458.348, Florida Statutes, are  
3 amended to read:

4           458.348 Formal supervisory relationships, standing  
5 orders, and established protocols; notice; standards.--

6           (1) NOTICE.--

7           (a) When a physician enters into a formal supervisory  
8 relationship or standing orders with an emergency medical  
9 technician or paramedic licensed pursuant to s. 401.27, which  
10 relationship or orders contemplate the performance of medical  
11 acts, or when a physician enters into an established protocol  
12 with an advanced registered nurse practitioner, which protocol  
13 contemplates the performance of medical acts or acts of  
14 psychological practice identified and approved by the joint  
15 committee pursuant to s. 464.003(3)(c) or acts set forth in s.  
16 464.012(3) and (4), the physician shall submit notice to the  
17 board. The notice shall contain a statement in substantially  
18 the following form:

19  
20           I, ...(name and professional license number of  
21 physician)..., of ...(address of physician)... have hereby  
22 entered into a formal supervisory relationship, standing  
23 orders, or an established protocol with ...(number of  
24 persons)... emergency medical technician(s), ...(number of  
25 persons)... paramedic(s), or ...(number of persons)...  
26 advanced registered nurse practitioner(s).

27  
28           (2) ESTABLISHMENT OF STANDARDS BY JOINT  
29 COMMITTEE.--The joint committee created by s. 464.003(3)(c)  
30 shall determine minimum standards for the content of  
31 established protocols pursuant to which an advanced registered

1 nurse practitioner may perform medical acts or acts of  
2 psychological practice identified and approved by the joint  
3 committee pursuant to s. 464.003(3)(c) or acts set forth in s.  
4 464.012(3) and (4) and shall determine minimum standards for  
5 supervision of such acts by the physician, unless the joint  
6 committee determines that any act set forth in s. 464.012(3)  
7 or (4) is not a medical act or an act of psychological  
8 practice. Such standards shall be based on risk to the  
9 patient and acceptable standards of medical or psychological  
10 practice care and shall take into account the special problems  
11 of medically underserved areas. The standards developed by the  
12 joint committee shall be adopted as rules by the Board of  
13 Nursing and the Board of Medicine for purposes of carrying out  
14 their responsibilities pursuant to part I of chapter 464 and  
15 this chapter, respectively, but neither board shall have  
16 disciplinary powers over the licensees of the other board.

17 Section 4. Paragraphs (b) and (c) of subsection (3) of  
18 section 464.003, Florida Statutes, are amended to read:

19 464.003 Definitions.--As used in this part:

20 (3)

21 (b) "Practice of practical nursing" means the  
22 performance of selected acts, including the administration of  
23 treatments and medications, in the care of the ill, injured,  
24 or infirm and the promotion of wellness, maintenance of  
25 health, and prevention of illness of others under the  
26 direction of a registered nurse, a licensed physician, a  
27 licensed osteopathic physician, a licensed podiatric  
28 physician, ~~or~~ a licensed dentist, or a licensed psychologist  
29 certified to prescribe drugs under s. 490.0146.

30  
31



1 The professional nurse and the practical nurse shall be  
2 responsible and accountable for making decisions that are  
3 based upon the individual's educational preparation and  
4 experience in nursing.

5 (c) "Advanced or specialized nursing practice" means,  
6 in addition to the practice of professional nursing, the  
7 performance of advanced-level nursing acts approved by the  
8 board which, by virtue of postbasic specialized education,  
9 training, and experience, are proper to be performed by an  
10 advanced registered nurse practitioner. Within the context of  
11 advanced or specialized nursing practice, the advanced  
12 registered nurse practitioner may perform acts of nursing  
13 diagnosis and nursing treatment of alterations of the health  
14 status. The advanced registered nurse practitioner may also  
15 perform acts of medical diagnosis and treatment, prescription,  
16 and operation which are identified and approved by a joint  
17 committee composed of three members appointed by the Board of  
18 Nursing, two of whom shall be advanced registered nurse  
19 practitioners; three members appointed by the Board of  
20 Medicine, two of whom shall have had work experience with  
21 advanced registered nurse practitioners; and the secretary of  
22 the department or the secretary's designee. Each committee  
23 member appointed by a board shall be appointed to a term of 4  
24 years unless a shorter term is required to establish or  
25 maintain staggered terms. The Board of Nursing shall adopt  
26 rules authorizing the performance of any such acts approved by  
27 the joint committee. Unless otherwise specified by the joint  
28 committee, such acts shall be performed under the general  
29 supervision of a practitioner licensed under chapter 458,  
30 chapter 459, or chapter 466, or a practitioner licensed under  
31 chapter 490 who is certified to prescribe drugs under s.

1 490.0146, within the framework of standing protocols that  
2 ~~which~~ identify the medical acts to be performed and the  
3 conditions for their performance. The department may, by  
4 rule, require that a copy of the protocol be filed with the  
5 department along with the notice required by s. 458.348.

6 Section 5. Subsection (3) of section 464.012, Florida  
7 Statutes, is amended to read:

8 464.012 Certification of advanced registered nurse  
9 practitioners; fees.--

10 (3) An advanced registered nurse practitioner shall  
11 perform those functions authorized in this section within the  
12 framework of an established protocol. A practitioner  
13 currently licensed under chapter 458, chapter 459, or chapter  
14 466, or a practitioner currently licensed under chapter 490  
15 who is certified to prescribe drugs under s. 490.0146, shall  
16 maintain supervision for directing the specific course of  
17 medical treatment. Within the established framework, an  
18 advanced registered nurse practitioner may:

19 (a) Monitor and alter drug therapies.

20 (b) Initiate appropriate therapies for certain  
21 conditions.

22 (c) Perform additional functions as may be determined  
23 by rule in accordance with s. 464.003(3)(c).

24 (d) Order diagnostic tests and physical and  
25 occupational therapy.

26 Section 6. Subsection (19) of section 893.02, Florida  
27 Statutes, is amended to read:

28 893.02 Definitions.--The following words and phrases  
29 as used in this chapter shall have the following meanings,  
30 unless the context otherwise requires:

31

1           (19) "Practitioner" means a physician licensed  
2 pursuant to chapter 458, a dentist licensed pursuant to  
3 chapter 466, a veterinarian licensed pursuant to chapter 474,  
4 an osteopathic physician licensed pursuant to chapter 459, a  
5 naturopath licensed pursuant to chapter 462, ~~or~~ a podiatric  
6 physician licensed pursuant to chapter 461, or a psychologist  
7 licensed under chapter 490 and certified to prescribe drugs  
8 under s. 490.0146, if the ~~provided such~~ practitioner holds a  
9 valid federal controlled substance registry number.

10           Section 7. For the purpose of incorporating the  
11 amendment to section 893.02, Florida Statutes, in references  
12 thereto, section 775.051, Florida Statutes, is reenacted to  
13 read:

14           775.051 Voluntary intoxication; not a defense;  
15 evidence not admissible for certain purposes;  
16 exception.--Voluntary intoxication resulting from the  
17 consumption, injection, or other use of alcohol or other  
18 controlled substance as described in chapter 893 is not a  
19 defense to any offense proscribed by law. Evidence of a  
20 defendant's voluntary intoxication is not admissible to show  
21 that the defendant lacked the specific intent to commit an  
22 offense and is not admissible to show that the defendant was  
23 insane at the time of the offense, except when the  
24 consumption, injection, or use of a controlled substance under  
25 chapter 893 was pursuant to a lawful prescription issued to  
26 the defendant by a practitioner as defined in s. 893.02.

27           Section 8. This act shall take effect July 1, 2003.  
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

\*\*\*\*\*

SENATE SUMMARY

Allows psychologists licensed under ch. 490, F.S., to prescribe drugs, including, but not limited to, controlled substances. Provides procedures for becoming a psychologist certified to prescribe drugs. Provides for discipline and for suspension or revocation of the licensure of a psychologist who violates rules adopted by the Board of Psychology. Amends other statutes, including provisions relating to advanced registered nurse practitioners, to conform.