

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Children, Families, and Elder Affairs Committee

BILL: CS/CS/SB 112

INTRODUCER: Children, Families and Elder Affairs Committee, Health Regulation Committee, and Senator Hill

SUBJECT: Electroconvulsive Therapy and Psychosurgical Procedures

DATE: April 19, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HR</u>	<u>Fav/CS</u>
2.	<u>Toman</u>	<u>Jameson</u>	<u>CF</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for the Committee Substitute for Senate Bill 112 requires the Department of Health (DOH) to compile data on the frequency and usage of electroconvulsive therapy and psychosurgery procedures on children under 18 years of age in Florida. The bill specifies what data must be provided, and requires DOH to report the collected data to the Legislature annually.

This bill creates an undesignated section of law.

II. Present Situation:

Electroconvulsive Therapy

According to the American Psychiatric Association (APA), electroconvulsive therapy (ECT) is a medical procedure that is sometimes used for the treatment of severe depressive disorders when other forms of therapy, such as medication and psychotherapy, have not been effective, cannot be tolerated, or (in life-threatening situations) will not help the patient quickly enough.¹

According to the APA, ECT “is the most effective and most rapidly acting treatment available for severe major depression.”² ECT is also sometimes used to treat mania, schizophrenia, and

¹ http://www.psych.org/research/apire/training_fund/clin_res/index.cfm?pf=y (last visited April 13, 2007).

² *Id.*

other mental and neurological disorders (e.g., bipolar disorder, schizoaffective disorder, catatonia, and Parkinson's disease).³

ECT is performed under general anesthesia, and involves the administration of brief, controlled electrical pulses that cause a seizure in the brain. Scientists believe ECT works by temporarily altering the electrochemical processes of the brain, which are impaired by some mental illnesses.⁴

The American Academy of Child & Adolescent Psychiatry (AACAP) has established a practice parameter for the use of electroconvulsive therapy with adolescents.⁵ AACAP acknowledges that reports of historical misuse and inaccurate media portrayals have created public concern about the use of ECT. AACAP notes, however, that it is clinically appropriate to consider the use of ECT with adolescents in certain situations.⁶ The AACAP practice parameter requires the clinician to obtain informed consent in accordance with applicable state law. In addition, the parameter requires that the following criteria be met before an adolescent is considered for ECT:

- Patient has a diagnosis of severe, persistent major depression or mania with or without psychotic features, schizoaffective disorder,⁷ catatonia,⁸ or neuroleptic malignant syndrome;⁹
- Patient has symptoms that are severe, persistent, and significantly disabling, including life-threatening symptoms (refusal to eat or drink, severe suicidality), uncontrollable mania, or psychosis; and
- Patient has had a failure of response to at least two adequate trials of appropriate psychopharmacological agents accompanied by other appropriate treatment modalities.¹⁰

The AACAP practice parameter requires a clinician to obtain a second opinion from a psychiatrist before using electroconvulsive therapy.¹¹

The practice parameter notes that adverse effects of electroconvulsive therapy may include impairment of memory and new learning, tardive seizures, prolonged seizures, and risks associated with general anesthesia. In adults, the fatality rate associated with ECT is 0.2 per

³ *Id.*

⁴ *Id.*

⁵ N. Ghaziuddin, *Practice Parameter for Use of Electroconvulsive Therapy with Adolescents*, 43:12 *Journal of the American Academy of Child & Adolescent Psychiatry*, p. 1521- 1539 (2004).

⁶ *Id.* at 1521.

⁷ Schizoaffective disorder is a psychiatric diagnosis characterized by a combination of symptoms of both psychosis and mood disorder. See http://en.wikipedia.org/wiki/Schizoaffective_disorder (last visited April 14, 2007).

⁸ Catatonia is a syndrome of psychic and motor disturbances that can result in an extreme loss of motor ability or constant hyperactive motor activity. See <http://en.wikipedia.org/wiki/Catatonia> (last visited April 14, 2007).

⁹ Neuroleptic malignant syndrome is a life-threatening, neurological disorder most often caused by an adverse reaction to neuroleptic or antipsychotic drugs. http://en.wikipedia.org/wiki/Neuroleptic_malignant_syndrome (last visited April 14, 2007).

¹⁰ Neera Ghaziuddin, *Practice Parameter for Use of Electroconvulsive Therapy with Adolescents*, 43:12 *Journal of the American Academy of Child & Adolescent Psychiatry*, p. 1521- 1539, 1522 (2004).

¹¹ *Id.* at 1523, 1531.

10,000 treatments and the anesthesia-related mortality rate is 1.1 per 10,000 treatments. Adolescents are not believed to be at additional risk from ECT.¹²

Psychosurgery

There is no consensus on a definition of “psychosurgery.” The term encompasses a broad range of surgical procedures used for the treatment of various neurological disorders. The American Medical Association Encyclopedia of Medicine defines “psychosurgery” as any operation on the brain carried out as a treatment for mental symptoms, performed only as a last resort to treat severe mental illnesses that have not responded to other forms of treatment.¹³ The Sloane-Dorland Annotated Medical-Legal Dictionary defines “psychosurgery” as brain surgery performed for the relief of mental and psychic symptoms.¹⁴

Today, only patients with severe, chronic, disabling and treatment refractory (unresponsive to treatment) psychiatric illness are even considered for surgical intervention.¹⁵ As in all medical decisions, the potential benefit must be balanced against the risks.

The major psychiatric diagnostic groups that may benefit from surgical intervention include obsessive compulsive disorder and major affective disorder (i.e. major depression or bipolar disorder).¹⁶ According to physicians with the Functional and Stereotactic Neurosurgery Center, many patients are greatly improved after psychosurgery and the complications or side effects are few. These experts conclude that surgical intervention remains an important therapeutic option for disabling psychiatric disease and is probably underutilized.¹⁷

Florida Law on Electroconvulsive or Psychosurgical Procedures

Chapter 458, F.S., prescribes regulations on the practice of medicine in Florida. Section 458.325, F.S., provides procedural safeguards for ECT and psychosurgical procedures. Specifically, s. 458.325(1), F.S., requires that prior written consent to the procedure must be obtained from the patient or the patient’s guardian (if the patient is a minor or incompetent), after disclosure of the purpose of the procedure, the common side effects of the procedure, alternative treatment modalities, and the approximate number of such procedures considered necessary for treatment. The physician must also disclose that consent to the procedure may be revoked prior to or between treatments.

Pursuant to s. 458.325(2), F.S., before ECT or psychosurgery is administered, the patient’s treatment record must be reviewed by and the proposed treatment must be approved by one other physician who is not directly involved with the patient. The agreement must be documented in the patient’s treatment record and must be signed by both physicians.

¹² *Id.* at 1524.

¹³ *American Medical Association Encyclopedia of Medicine* 833, Random House, New York (1989).

¹⁴ *Sloane-Dorland Annotated Medical-Legal Dictionary* 592, West Publishing Company (1987).

¹⁵ G. Rees Cosgrove, M.D., F.R.C.S. and Scott L. Rauch, M.D., *Psychosurgery*, Functional and Stereotactic Neurosurgery Center. Article found at <http://neurosurgery.mgh.harvard.edu/Functional/psysurg.htm> (last visited April 14, 2007).

¹⁶ *Id.*

¹⁷ *Id.*

Laws of Other States on Use of Electroconvulsive Therapy or Psychosurgery on Minors

At least five states prohibit the use of ECT on minors or provide additional procedural safeguards for its use on minors. Colorado and Texas both prohibit the use of electroconvulsive therapy on minors less than 16 years of age.¹⁸ California prohibits the use of convulsive treatment on a minor less than 12 years of age,¹⁹ and completely prohibits the use of psychosurgery on minors.²⁰ New Mexico prohibits the use of psychosurgery or convulsive treatment on a child, except by order of a court finding that the treatment is necessary to prevent serious harm to the child.²¹ Tennessee prohibits the use of ECT on minors, except as authorized by a court.²²

III. Effect of Proposed Changes:

The bill requires DOH to compile data on the frequency and usage of electroconvulsive therapy and psychosurgery procedures on children under 18 years of age in Florida. The data must include information about the following:

- Severity of the illness requiring the procedures;
- Adverse events resulting from the procedures;
- Efficacy of the procedures;
- Number of the procedures performed over a 3-year period in Florida;
- Age of the children;
- Informed consent process of each procedure; and
- Number of the procedures performed on children in the custody of the Department of Children and Families (DCF) or the Department of Juvenile Justice (DJJ), and on children who reside in facilities operated by the Agency for Persons with Disabilities (APD).

The bill requires that DOH report the data to the Legislature by January 1, 2008 and annually thereafter.

The effective date of the bill is July 1, 2007.

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, Section 18 of the Florida Constitution

¹⁸ Colo. Rev. Stat. Ann. s. 13-20-403 (2005); Tex. Health & Safety Code Ann. s. 578.002 (2003).

¹⁹ Cal. Welf. & Inst. Code s. 5326.8 (1998).

²⁰ Cal. Welf. & Inst. Code s. 5326.6 (1998).

²¹ N.M. Stat. Ann. s. 32A-6-14 (1978).

²² Tenn. Code Ann. s. 33-8-301, *et. seq.*

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 Article I, Section 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:

None.

C. Government Sector Impact:

The DOH will incur costs to compile data on the frequency and usage of ECT and psychosurgery procedures on children in Florida.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the Agency for Healthcare Administration, data concerning the number of ECT procedures performed in Florida each year is already collected. According to this data, for the time period 2003 through 2005, nine ECT procedures were performed on patients aged 0-17.

It may not be possible for DOH to comply with the requirement that it compile data as to the numbers of procedures performed on children served by the specified state agencies. Hospital discharge data would not necessarily indicate that a child was in the custody of DCF, or lived at an APD facility. According to DJJ, the agency would not retain custody of a child who required ECT or psychosurgery.

According to APD, the agency does not have "custody" of any of the children it serves and cannot provide consent to medical procedures for those children; as such, APD would not necessarily have information regarding the numbers of its consumers who might undergo these procedures.

DCF reports that a court order would be required before either ECT or psychosurgery could be performed on a child in the department's custody. DCF does not track these procedures, so the data contemplated by the bill is not readily available.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
