

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.)

Prepared By: Health Regulation Committee

BILL: CS/SB 112

INTRODUCER: Health Regulation Committee and Senator Hill

SUBJECT: Electroconvulsive Therapy and Psychosurgical Procedures

DATE: February 22, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HR	Fav/CS
2.			CF	
3.				
4.				
5.				
6.				

I. Summary:

The bill requires the Department of Health 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 the severity of the illness requiring these procedures, any adverse events resulting from the procedures, the efficacy of the procedures, the number of these procedures performed over a 3-year period in Florida, the age of the children, and the informed consent process of each procedure. The Department of Health must report the data to the Legislature.

This bill creates an undesignated section of law.

II. Present Situation:

Electroconvulsive Therapy

Electroconvulsive therapy is a medical procedure that is utilized for the treatment of severe and refractory (refractory refers to conditions that are unresponsive to medications and other treatment) depressive disorders and catatonia. Catatonia is a disturbance of motor behavior that can have either a psychological or a neurological cause. Its most well known form involves a rigid, immobile position that is held by a person for a considerable length of time — often days, weeks, or longer. It can also refer to agitated, purposeless motor activity that is not stimulated by something in the environment. The American Psychiatric Association guidelines recommend electroconvulsive therapy as the treatment modality when medications are intolerable or

ineffective for the treatment of moderate-severe major depression.¹ The American Psychiatric Association guidelines for the treatment of bipolar disorder indicate that electroconvulsive therapy may be used as a treatment for medication-resistant mania associated with bipolar disorder.²

The Joint Commission on Accreditation of Healthcare Organizations has established recommendations for the use of electroconvulsive therapy that are similar to those of the American Psychiatric Association.³ Both organizations recommend that a second evaluation be performed on the patient by a physician who has privileges to administer electroconvulsive therapy before electroconvulsive therapy is started.

The American Academy of Child & Adolescent Psychiatry (AACAP or academy) has established practice parameters for the use of electroconvulsive therapy with adolescents.⁴ The academy notes that reports of historical misuses and inaccurate media portrayals have created public concern about the use of electroconvulsive therapy. The academy notes that when an appropriate clinical situation presents, the clinician should consider its use.⁵ The practice parameter developed by the academy requires the clinician to obtain informed consent in accordance with applicable state law. Before an adolescent is considered for electroconvulsive therapy, the adolescent must meet three criteria:

- A diagnosis of severe, persistent major depression or mania with or without psychotic features; schizoaffective disorder⁶; or catatonia and neuroleptic malignant syndrome⁷;
- The patient's symptoms must be severe, persistent, and significantly disabling, which may include life-threatening symptoms such as refusal to eat or drink, severe suicidality, uncontrollable mania, or psychosis; and
- The failure to respond to at least two adequate trials of appropriate psychopharmacological agents accompanied by other appropriate treatment modalities.⁸

The American Academy of Child & Adolescent Psychiatry's practice parameters for electroconvulsive therapy require the clinician to perform a careful psychiatric and medical

¹ See American Psychiatric Association's Practice Guidelines for the Treatment of Patients with Major Depressive Disorders. *American Journal of Psychiatry* 157: 1-45 (2000). See also, Fochtmann LJ, Gelenberg, AJ: *Guideline Watch: Practice Guideline for the Treatment of Patients with Major Depressive Disorder*, 2nd Edition. Arlington, VA: American Psychiatric Association, 2005. Available online at <www.psych.org> (Last visited on February 15, 2007).

² See American Psychiatric Association's Practice Guidelines for the Treatment of Patients with Bipolar Disorder, 2nd Edition. Originally published April 2002. Available online at <www.psych.org> (Website last visited on February 15, 2007).

³ See Joint Commission on Accreditation of Healthcare Organizations Accreditation Manuals for Hospitals, Patient Care Chapter 13.50 (2002).

⁴ See the American Academy of Child & Adolescent Psychiatry's website at <www.aacap.org> (Website last visited on February 15, 2007). The practice parameter for the use of electroconvulsive therapy with adolescents was developed by Neera Ghaziuddin, M.D., M.R.C.Psych., et al. and by the American Academy of Child & Adolescent Psychiatry on June 2002.

⁵ Id.

⁶ Schizoaffective disorder is a chronic, disabling mental illness characterized by a combination of symptoms of schizophrenia and mood disorder.

⁷ Neuroleptic malignant syndrome is a life-threatening, neurological disorder most often caused by an adverse reaction to neuroleptic or antipsychotic drugs.

⁸ Id.

evaluation, including a memory assessment before treatment.⁹ The practice parameters require the clinician to obtain a second opinion before using electroconvulsive therapy.¹⁰ Under the practice parameters, every patient being considered for electroconvulsive therapy must receive an independent evaluation from a psychiatrist who is knowledgeable about electroconvulsive therapy and who is not directly responsible for the treatment of the patient. The practice parameters note 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 electroconvulsive therapy is 0.2 per 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 electroconvulsive therapy.

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. It may be characterized as brain or neurosurgery for a psychiatric or neurological condition. The American Medical Association Encyclopedia of Medicine defines “psychosurgery” as any operation on the brain carried out as a treatment for mental symptoms. Psychosurgery is performed only as a last resort to treat severe mental illnesses that have not responded to other forms of treatment.¹¹ The Sloane-Dorland Annotated Medical-Legal Dictionary defines “psychosurgery” as brain surgery performed for the relief of mental and psychic symptoms.¹² The use of psychosurgery is uncommon to treat “neuropsychiatric” disorders and is generally limited to the treatment of an obsessive-compulsive disorder, which has been unresponsive to medications, or other treatments.

Florida Law on Electroconvulsive or Psychosurgical Procedures

Chapter 458, Florida Statutes, sets forth the regulations of the practice of medicine. Section 458.325, F.S., imposes procedural safeguards before electroconvulsive or psychosurgical procedures may be used. Each time that an electroconvulsive or psychosurgical procedure is utilized, s. 458.325, F.S., requires a Florida-licensed medical physician to obtain prior written consent 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 medical physician must also disclose to the patient or patient’s guardian that their consent for electroconvulsive or psychosurgical procedures may be revoked prior to or between treatments.

Before electroconvulsive therapy or psychosurgery may be administered, the patient’s treatment record must be reviewed and the proposed electroconvulsive therapy or psychosurgery agreed to 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.

⁹ See supra, the American Academy of Child & Adolescent Psychiatry.

¹⁰ Id.

¹¹ The American Medical Association Encyclopedia of Medicine. Random House, New York (1989).

¹² The Sloane-Dorland Annotated Medical-Legal Dictionary, West Publishing Company St Paul, Minnesota (1987).

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

At least five states prohibit the use of electroconvulsive therapy on minors or provide additional procedural safeguards for its use on minors. The State of Colorado and the State of Texas both prohibit the use of electroconvulsive therapy on minors under 16 years of age.¹³ The State of California prohibits the use of convulsive treatment on a minor under 12 years of age.¹⁴ The State of California prohibits the use of psychosurgery on a minor.¹⁵ The State of 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.¹⁶ The State of Tennessee prohibits the use of electroconvulsive therapy on minors, unless a court concurs, in proceedings in which the child is represented by a guardian ad litem.¹⁷

III. Effect of Proposed Changes:

The bill requires the Department of Health 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 the severity of the illness requiring these procedures, any adverse events resulting from the procedures, the efficacy of the procedures, the number of these procedures performed over a 3-year period in Florida, the age of the children, and the informed consent process of each procedure. The Department of Health must report the data to the Legislature.

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.

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.

¹³ See Title 13, Art. 20, Section 403 of the Colorado Civil Code. See Section 578.002 of the Texas Mental Health Code.

¹⁴ See Section 5326.8 of the California Code.

¹⁵ See Section 5326.6 of the California Code

¹⁶ See New Mexico Statutes Annotated Chapter 32A, Article 6-14.

¹⁷ See Tennessee Code Annotated 8-301 to 8-313.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Health will incur costs to compile data on the frequency and usage of electroconvulsive therapy and psychosurgery procedures on children in Florida.

VI. Technical Deficiencies:

The bill does not state a specific date by which the Department of Health would be required to report the data its staff has compiled on the frequency and usage of electroconvulsive therapy and psychosurgery procedures on children under 18 years of age in Florida.

VII. Related Issues:

None.

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