

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 1750

INTRODUCER: Senators Siplin and Montford

SUBJECT: Advanced Registered Nurse Practitioners

DATE: February 7, 2012      REVISED: 02/16/12

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlantès	Stovall	HR	<b>Fav/1 amendment</b>
2.			BC	
3.				
4.				
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/>            | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input checked="" type="checkbox"/> | Significant amendments were recommended |

**I. Summary:**

This bill authorizes Advanced Registered Nurse Practitioners (ARNPs) to execute a certificate for involuntary examination of a person for mental illness at a receiving facility designated by the Department of Children and Families. Current law provides that physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists, and clinical social workers may execute certificates for involuntary examination.

This bill substantially amends s. 394.463, F.S.

**II. Present Situation:**

**Involuntary Examination**

In 1971, the Legislature passed the Florida Mental Health Act (also known as The Baker Act) to address mental health needs in the state. Part I of ch. 394, F.S., provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment. The Department of Children and Families (DCF) administers this law through receiving facilities, which provide for

the examination of persons with evidence of a mental illness. Receiving facilities are designated by DCF and may be public or private facilities which provide for the involuntary examination and short-term treatment of persons who meet criteria under this act.<sup>1</sup> Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state hospitals (e.g., Florida State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.<sup>2</sup>

Current law provides that an involuntary examination may be initiated for a person if there is reason to believe the person has a mental illness, and, because of the illness, the person has refused a voluntary examination after explanation of the purpose of the exam or the person is unable to determine for themselves that an examination is needed and is likely to suffer from self-neglect, cause substantial harm to themselves, or be a danger to themselves or others.<sup>3</sup> An involuntary examination may be initiated by any of the following:<sup>4</sup>

- A court may enter an *ex parte* order stating a person meets the criteria for involuntary examination. This order is based on the sworn testimony by the petitioner, either written or oral;
- A law enforcement officer may take a person into custody who appears to meet the criteria for involuntary examination and transport him or her to a receiving facility for examination; or
- Physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists or clinical social workers may issue a certificate stating that a person they examined within the preceding 48 hours meets the criteria for involuntary examination.

Current law provides that physicians, clinical psychologists, and psychiatric nurses who issue certificates for involuntary examinations must have additional experience or education requirements related to mental disorders.<sup>5</sup> Clinical social workers are required by law to have experience in providing psychotherapy and counseling.<sup>6</sup> Marriage and Family Therapist practice includes using psychological methods to evaluate, assess, diagnose, treat, and prevent emotional and mental disorders or dysfunctions.<sup>7</sup>

In 2009, there were 136,120 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary examinations (48.89 percent), followed by mental health professionals (48.74 percent), and then *ex parte* orders by judges (2.37 percent).<sup>8</sup>

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<sup>1</sup> Section 394.455(26), F.S.

<sup>2</sup> Section 394.455(32), F.S.

<sup>3</sup> Section 394.463(1), F.S.

<sup>4</sup> Section 394.463, F.S.

<sup>5</sup> Sections 394.455(2)(21)(23), F.S.

<sup>6</sup> Section 491.003(3), F.S.

<sup>7</sup> Section 491.003(8), F.S.

<sup>8</sup> Report of Baker Act Data, Summary of Data from 2009. USF, de la Parte Florida Mental Health Institute. <http://bakeract.fmhi.usf.edu>. (last visited on January 12, 2012).

## Advanced Registered Nurse Practitioners

Part I of ch. 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (BON). Licensure requirements to practice professional nursing include completion of education requirements,<sup>9</sup> demonstration of passage of a department-approved examination, a clean criminal background screening, and payment of applicable fees.<sup>10</sup> Renewal is biennial and is contingent upon completion of certain continuing medical education requirements.

A nurse who holds a license to practice professional nursing may be certified as an ARNP under s. 464.012, F.S., if the nurse meets one or more of the following requirements:

- Completion of a post-basic education program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board, including boards for registered nurse anesthetists or nurse midwives; or
- Possession of a master's degree in a nursing clinical specialty area.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.<sup>11</sup> All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or a dentist. ARNPs may carry out treatments as specified in statute, including:<sup>12</sup>

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- Performing additional functions as may be determined by rule in accordance with s. 464.003(2), F.S.;<sup>13</sup> and
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above permitted acts, ARNPs may perform other acts as permitted in statute within the specialty.<sup>14</sup> If it is within an established protocol, an ARNP may also diagnose behavioral problems and make treatment recommendations.<sup>15</sup>

There are 13,519 active, licensed ARNPs in Florida.<sup>16</sup>

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<sup>9</sup> Rule 64B9-4.003, F.A.C., provides that an Advanced Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

<sup>10</sup> Section 464.009, F.S., provides an alternative to licensure by examination for nurses through licensure by endorsement.

<sup>11</sup> Section 464.012(2), F.S.

<sup>12</sup> Section 464.012(3), F.S.

<sup>13</sup> Section 464.003(2), F.S., defines "Advanced or Specialized Nursing Practice" to include additional activities that an ARNP may perform as approved by the Board of Nursing.

<sup>14</sup> Section 464.012(4), F.S.

<sup>15</sup> Section 464.012(4)(c)5., F.S.

<sup>16</sup> Florida Department of Health, Medical Quality Assurance Annual Report 2010-2011.

### III. Effect of Proposed Changes:

**Section 1** amends s. 394.463, F.S., to permit an ARNP to execute a certificate stating that a person, who the ARNP has examined within the preceding 48 hours, appears to meet criteria for involuntary examination for mental illness. Current law provides that physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists and clinical social workers may execute certificates for involuntary examination. These professions are required by statute to have experience and education in mental health treatment. ARNP training programs require students to have education in behavioral sciences.<sup>17</sup>

**Section 2** provides an effective date of July 1, 2012.

### 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 the 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. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

ARNPs will be able to initiate involuntary patient examinations under the Baker Act.

#### C. Government Sector Impact:

None.

### VI. Technical Deficiencies:

None.

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<sup>17</sup> Rule 64B9-4.003, F.A.C., provides that an Advanced Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

**VII. Related Issues:**

Although ARNPs practice within an established protocol, it is unclear in the bill whether the authority to execute a certificate for involuntary examination is restricted to a protocol that authorizes the diagnosis of behavioral problems and treatment recommendations or whether any licensed ARNP may execute a certificate for involuntary examination.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

**Barcode 913088 by Health Regulation on February 16, 2012:**

Adds physician assistants to the list of practitioners permitted to involuntarily examine patients under the Baker Act.