

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 Committee on Health Policy

BILL: SB 476

INTRODUCER: Senator Grimsley

SUBJECT: Florida Mental Health Act

DATE: March 19, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harper	Stovall	HP	Pre-meeting
2.			CF	
3.			RC	

I. Summary:

SB 476 replaces the term “psychiatric nurse” with “psychiatric-mental health advanced registered nurse practitioner,” and revises the definition of “service provider” to include psychiatric-mental health advanced registered nurse practitioner. The bill requires state certification under s. 464.012, F.S., and national certification for psychiatric-mental health advanced registered nurse practitioners.

The bill authorizes psychiatric-mental health advanced registered nurse practitioners to release Baker Act patients from involuntary examination in a receiving facility.

The bill replaces authorization for psychiatric nurses with authorization for psychiatric-mental health advanced registered nurse practitioners as it relates to involuntary inpatient and outpatient placement.

The bill provides and effective date of July 1, 2015.

II. Present Situation:

The Florida Mental Health Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state.¹ 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.

¹ Chapter 71-131, s. 1, Laws of Fla.

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:²

- The person has refused a voluntary examination after explanation of the purpose of the exam, or is unable to determine for themselves that an examination is needed; and
- The person is likely to suffer from self-neglect, cause substantial harm to himself or herself, or be a danger to himself or herself or others.

An involuntary examination may be initiated by a circuit court or a law enforcement officer.³ A circuit court may enter an ex parte order stating a person meets the criteria for involuntary examination. A law enforcement officer, as defined in s. 943.10, F.S., may take a person into custody who appears to meet the criteria for involuntary examination and transport that person to a receiving facility for examination. In addition, the following professionals, when they have examined a person within the preceding 48 hours, may issue a certificate stating that the person meets the criteria for involuntary examination:⁴

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders.
- A physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility.
- A clinical psychologist, as defined in s. 490.003(7), F.S., with 3 years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.
- A psychiatric nurse licensed under part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing and 2 years of post-master's clinical experience under the supervision of a physician.
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.
- A clinical social worker licensed under ch. 491, F.S.

The Department of Children and Families (DCF) administers the Baker Act 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 the examination and short-term treatment of persons who meet criteria under the Baker Act.⁵

A patient taken to a receiving facility must be examined by a physician or clinical psychologist. Upon the order of a physician, the patient may be given emergency treatment if it is determined that such treatment is necessary.⁶ 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.⁷

² Section 394.463(1), F.S.

³ Section 394.463(2)(a), F.S.

⁴ *Id* and s. 394.455, F.S.

⁵ Section 394.455(26), F.S.

⁶ Section 394.463(2)(f), F.S.

⁷ Section 394.455(32), F.S.

To be released by the receiving facility, the patient must have documented approval from a psychiatrist, clinical psychologist, or, if the receiving facility is a hospital, by an attending emergency department physician.⁸ The statute does not allow the release of a patient by a psychiatric nurse. However, receiving facilities are prohibited from holding a patient for involuntary examination for longer than 72 hours.⁹

Psychiatric Nurses

In Florida, a psychiatric nurse is a registered nurse licensed under part I of chapter 464, F.S., who has a master's degree or a doctorate in psychiatric nursing and 2 years of post-master's clinical experience under the supervision of a physician.¹⁰ Currently, there are 590 psychiatric nurses in Florida.¹¹

Psychiatric–Mental Health Nurse Practitioner Certification

In Florida, psychiatric nurses are not required to hold a national advance practice certification. However, if a nurse chooses to become certified as a Psychiatric–Mental Health Nurse Practitioner, he or she must meet certain eligibility requirements as determined by the American Nurses Credentialing Center (ANCC). To be eligible for national certification an individual must:¹²

- Hold a current, active RN license;
- Hold a master's, postgraduate, or doctoral degree from an accredited family psychiatric-mental health nurse practitioner program;
- Have a minimum of 500 faculty-supervised clinical hours in the nursing program;
- Complete specified graduate-level courses; and
- Complete clinical training in at least two psychotherapeutic treatment modalities.

Eligible candidates may take a national certification examination developed by the ANCC. If certified, the individual must provide 1,000 clinical hours of patient care and log 75 hours of continuing education every 5 years. Certified psychiatric nurses must be recertified every 5 years.¹³

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 (board). Licensure requirements to practice advanced and specialized nursing include completion of

⁸ Section 394.463(2)(f), F.S.

⁹ *Id.*

¹⁰ Section 394.455(23), F.S.

¹¹ Florida House of Representatives, Health and Human Services Committee, *CS/CS/HB 335 Staff Analysis*, (Mar. 16, 2015) available at <http://www.flsenate.gov/Session/Bill/2015/0335/?Tab=Analyses> (last visited Mar. 18, 2015).

¹² American Nurses Credentialing Center, *Psychiatric–Mental Health Nurse Practitioner Certification Eligibility Criteria*, (2014) available at <http://www.nursecredentialing.org/FamilyPsychNP-Eligibility.aspx> (last visited Mar. 18, 2015).

¹³ American Psychiatric Nurses Association, *FAQs about Advanced Practice Psychiatric Nurses*, (2009), available at <http://www.apna.org/i4a/pages/index.cfm?pageid=3866> (last visited Mar. 18, 2015).

education requirements,¹⁴ demonstration of passage of a DOH approved examination, a clean criminal background screening, and payment of applicable fees. Renewal is biennial and contingent upon completion of certain continuing medical education requirements. For an applicant to be eligible to be certified as an ARNP, the applicant must:¹⁵

- Hold a current, active registered nurse (RN) license;
- Hold a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills; and
- Submit proof to the board that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.¹⁶ 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.¹⁷

ARNPs may carry out treatments as specified in statute, including:¹⁸

- 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.; and
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above allowed acts, ARNPs may also perform other acts as authorized by statute and within his or her specialty.¹⁹ Further, if it is within the ARNPs established protocol, the ARNP may establish behavioral problems and diagnosis and make treatment recommendations.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., by defining “psychiatric-mental health advanced registered nurse practitioner” and redefining “service provider.”

“Psychiatric-mental health advanced registered nurse practitioner” replaces the definition for “psychiatric nurse” and is defined to mean:

A registered nurse certified under s. 464.012, F.S., who holds a master's degree or a doctorate in psychiatric nursing and holds a national advanced practice certification as a psychiatric-mental health nurse practitioner.

¹⁴ Rule 64B9-4.003, F.A.C., provides that an Advanced Nursing Program shall be at least 1 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.

¹⁵ Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

¹⁶ Section 464.012(2), F.S.

¹⁷ Section 464.012(3), F.S.

¹⁸ *Id.*

¹⁹ Section 464.012(4), F.S.

²⁰ Section 464.012(4)(c)5, F.S.

The definition for “service provider” is revised by replacing the term “psychiatric nurse” with the term “psychiatric-mental health advanced registered nurse practitioner.”

Section 2 amends s. 394.463, F.S., to include psychiatric-mental health advanced registered nurse practitioners among the list of health care providers who may initiate an involuntary examination under the Florida Mental Health Act. The bill removes psychiatric nurses from the list of health care providers who may initiate an involuntary examination.

The bill authorizes the release of a patient from a receiving facility with the documented approval of a psychiatric-mental health advanced registered nurse practitioner. This provision adds psychiatric-mental health advanced registered nurse practitioners to the limited group of health care providers who may release a patient from a receiving facility.

Section 3 amends s. 394.4574, F.S., by replacing “psychiatric nurse” with “psychiatric-mental health advanced registered nurse practitioner” as a provider who has assessed a mental health resident and determined that he or she is appropriate to reside in an assisted living facility that holds a limited mental health license.

Section 4 amends s. 394.4655(2), F.S., by replacing authorization for psychiatric nurses with authorization for psychiatric-mental health advanced registered nurse practitioners as it relates to involuntary outpatient placement.

Section 5 amends s. 394.467(2), F.S., by replacing authorization for psychiatric nurses with authorization for psychiatric-mental health advanced registered nurse practitioners as it relates to a second opinion for involuntary inpatient placement.

Sections 6 – 14 reenact sections of the Florida Statutes in order to incorporate the changes made in this bill.

Section 15 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Psychiatric nurses wishing to become psychiatric-mental health advanced registered nurse practitioners may incur costs in order to attain required certification.

C. Government Sector Impact:

None reported by the Department of Children and Families.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.463, 394.4574, 394.4655, and 394.467.

This bill reenacts the following sections of the Florida Statutes: 394.495, 394.496, 39.407, 394.462, 394.4625, 395.1041, 984.19, and 394.4598.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.