



183442

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
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The Committee on Rules (Soto) recommended the following:

1 **Senate Amendment to Amendment (395678) (with title**
2 **amendment)**

3
4 Delete lines 296 - 731
5 and insert:

6
7 This subsection does not apply to a board-eligible or board-
8 certified anesthesiologist, physiatrist, rheumatologist, or
9 neurologist, or to a board-certified physician who has surgical
10 privileges at a hospital or ambulatory surgery center and
11 primarily provides surgical services. This subsection does not



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12 apply to a board-eligible or board-certified medical specialist
13 who has also completed a fellowship in pain medicine approved by
14 the Accreditation Council for Graduate Medical Education or the
15 American Osteopathic Association, or who is board eligible or
16 board certified in pain medicine by the American Board of Pain
17 Medicine, the American Board of Interventional Pain Physicians,
18 the American Association of Physician Specialists, or a board
19 approved by the American Board of Medical Specialties or the
20 American Osteopathic Association and performs interventional
21 pain procedures of the type routinely billed using surgical
22 codes. This subsection does not apply to a registrant, advanced
23 registered nurse practitioner, or physician assistant who
24 prescribes medically necessary controlled substances for a
25 patient during an inpatient stay in a hospital licensed under
26 chapter 395.

27 Section 9. Section 458.326, Florida Statutes, is amended to
28 read:

29 458.326 Intractable pain; authorized treatment;
30 interventional pain medicine; unauthorized practice.-

31 (1) (a) For the purposes of this subsection ~~section~~, the
32 term "intractable pain" means pain for which, in the generally
33 accepted course of medical practice, the cause cannot be removed
34 and otherwise treated.

35 (b) ~~(2)~~ Intractable pain must be diagnosed by a physician
36 licensed under this chapter and qualified by experience to
37 render such diagnosis.

38 (c) ~~(3)~~ Notwithstanding any other provision of law, a
39 physician may prescribe or administer any controlled substance
40 under Schedules II-V, as provided for in s. 893.03, to a person



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41 for the treatment of intractable pain, provided the physician
42 does so in accordance with that level of care, skill, and
43 treatment recognized by a reasonably prudent physician under
44 similar conditions and circumstances.

45 (d) (4) Nothing in this section shall be construed to
46 condone, authorize, or approve mercy killing or euthanasia, and
47 no treatment authorized by this section may be used for such
48 purpose.

49 (2) (a) For the purposes of this subsection, the term
50 "interventional pain medicine" means the practice of medicine
51 devoted to the diagnosis and treatment of pain-related
52 disorders, principally with the application of interventional
53 techniques in managing chronic, intractable pain, independently
54 or in conjunction with other treatment modalities. These
55 techniques include minimally invasive procedures, including
56 percutaneous precision needle placement, with placement of drugs
57 in targeted areas or destruction of targeted nerves, and some
58 surgical techniques such as laser or endoscopic discectomy,
59 cement stabilization of spine fractures, intrathecal infusion
60 pumps, and spinal cord stimulators, for the diagnosis and
61 management of chronic, intractable pain.

62 (b) A person may not practice interventional pain medicine
63 or offer to practice interventional pain medicine unless such
64 acts are performed at facilities licensed under chapter 395 or
65 are performed by or under the direct supervision of a physician
66 licensed under this chapter or an osteopathic physician licensed
67 under chapter 459.

68 Section 10. Paragraph (b) of subsection (2) of section
69 458.3265, Florida Statutes, is amended to read:



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70 458.3265 Pain-management clinics.-

71 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
72 apply to any physician who provides professional services in a
73 pain-management clinic that is required to be registered in
74 subsection (1).

75 (b) A person may not dispense any medication on the
76 premises of a registered pain-management clinic unless he or she
77 is a physician licensed under this chapter or chapter 459. A
78 person may not prescribe any controlled substance regulated
79 under chapter 893 on the premises of a registered pain-
80 management clinic unless he or she is a physician licensed under
81 this chapter or chapter 459.

82 Section 11. Paragraph (b) of subsection (2) of section
83 459.0137, Florida Statutes, is amended to read:

84 459.0137 Pain-management clinics.-

85 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
86 apply to any osteopathic physician who provides professional
87 services in a pain-management clinic that is required to be
88 registered in subsection (1).

89 (b) A person may not dispense any medication on the
90 premises of a registered pain-management clinic unless he or she
91 is a physician licensed under this chapter or chapter 458. A
92 person may not prescribe any controlled substance regulated
93 under chapter 893 on the premises of a registered pain-
94 management clinic unless he or she is a physician licensed under
95 this chapter or chapter 458.

96 Section 12. Paragraph (e) of subsection (4) of section
97 458.347, Florida Statutes, is amended, and paragraph (c) of
98 subsection (9) of that section is republished, to read:



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99 458.347 Physician assistants.—

100 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

101 (e) A supervisory physician may delegate to a fully
102 licensed physician assistant the authority to prescribe or
103 dispense any medication used in the supervisory physician's
104 practice unless such medication is listed on the formulary
105 created pursuant to paragraph (f). A fully licensed physician
106 assistant may only prescribe or dispense such medication under
107 the following circumstances:

108 1. A physician assistant must clearly identify to the
109 patient that he or she is a physician assistant. Furthermore,
110 the physician assistant must inform the patient that the patient
111 has the right to see the physician prior to any prescription
112 being prescribed or dispensed by the physician assistant.

113 2. The supervisory physician must notify the department of
114 his or her intent to delegate, on a department-approved form,
115 before delegating such authority and notify the department of
116 any change in prescriptive privileges of the physician
117 assistant. Authority to dispense may be delegated only by a
118 supervising physician who is registered as a dispensing
119 practitioner in compliance with s. 465.0276.

120 3. The physician assistant must file with the department a
121 signed affidavit that he or she has completed a minimum of 10
122 continuing medical education hours in the specialty practice in
123 which the physician assistant has prescriptive privileges with
124 each licensure renewal application. Three of the 10 hours must
125 consist of a continuing education course on the safe and
126 effective prescribing of controlled substance medications, which
127 shall be offered by a statewide professional association of



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128 physicians in this state accredited to provide educational
129 activities designated for the American Medical Association
130 Physician's Recognition Award Category I Credit.

131 4. The department may issue a prescriber number to the
132 physician assistant granting authority for the prescribing of
133 medicinal drugs authorized within this paragraph upon completion
134 of the foregoing requirements. The physician assistant shall not
135 be required to independently register pursuant to s. 465.0276.

136 5. The prescription must be written in a form that complies
137 with chapter 499 and must contain, in addition to the
138 supervisory physician's name, address, and telephone number, the
139 physician assistant's prescriber number. Unless it is a drug or
140 drug sample dispensed by the physician assistant, the
141 prescription must be filled in a pharmacy permitted under
142 chapter 465 and must be dispensed in that pharmacy by a
143 pharmacist licensed under chapter 465. The appearance of the
144 prescriber number creates a presumption that the physician
145 assistant is authorized to prescribe the medicinal drug and the
146 prescription is valid.

147 6. The physician assistant must note the prescription or
148 dispensing of medication in the appropriate medical record.

149 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on
150 Physician Assistants is created within the department.

151 (c) The council shall:

152 1. Recommend to the department the licensure of physician
153 assistants.

154 2. Develop all rules regulating the use of physician
155 assistants by physicians under this chapter and chapter 459,
156 except for rules relating to the formulary developed under



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157 paragraph (4) (f). The council shall also develop rules to ensure
158 that the continuity of supervision is maintained in each
159 practice setting. The boards shall consider adopting a proposed
160 rule developed by the council at the regularly scheduled meeting
161 immediately following the submission of the proposed rule by the
162 council. A proposed rule submitted by the council may not be
163 adopted by either board unless both boards have accepted and
164 approved the identical language contained in the proposed rule.
165 The language of all proposed rules submitted by the council must
166 be approved by both boards pursuant to each respective board's
167 guidelines and standards regarding the adoption of proposed
168 rules. If either board rejects the council's proposed rule, that
169 board must specify its objection to the council with
170 particularity and include any recommendations it may have for
171 the modification of the proposed rule.

172 3. Make recommendations to the boards regarding all matters
173 relating to physician assistants.

174 4. Address concerns and problems of practicing physician
175 assistants in order to improve safety in the clinical practices
176 of licensed physician assistants.

177 Section 13. Effective January 1, 2016, paragraph (f) of
178 subsection (4) of section 458.347, Florida Statutes, is amended
179 to read:

180 458.347 Physician assistants.—

181 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

182 (f)1. The council shall establish a formulary of medicinal
183 drugs that a fully licensed physician assistant having
184 prescribing authority under this section or s. 459.022 may not
185 prescribe. The formulary must include ~~controlled substances as~~



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186 ~~defined in chapter 893,~~ general anesthetics, and radiographic
187 contrast materials, and must limit the prescription of Schedule
188 II controlled substances as defined in s. 893.03 to a 7-day
189 supply. The formulary must also restrict the prescribing of
190 psychiatric mental health controlled substances for children
191 under 18 years of age.

192 2. In establishing the formulary, the council shall consult
193 with a pharmacist licensed under chapter 465, but not licensed
194 under this chapter or chapter 459, who shall be selected by the
195 State Surgeon General.

196 3. Only the council shall add to, delete from, or modify
197 the formulary. Any person who requests an addition, deletion, or
198 modification of a medicinal drug listed on such formulary has
199 the burden of proof to show cause why such addition, deletion,
200 or modification should be made.

201 4. The boards shall adopt the formulary required by this
202 paragraph, and each addition, deletion, or modification to the
203 formulary, by rule. Notwithstanding any provision of chapter 120
204 to the contrary, the formulary rule shall be effective 60 days
205 after the date it is filed with the Secretary of State. Upon
206 adoption of the formulary, the department shall mail a copy of
207 such formulary to each fully licensed physician assistant having
208 prescribing authority under this section or s. 459.022, and to
209 each pharmacy licensed by the state. The boards shall establish,
210 by rule, a fee not to exceed \$200 to fund the provisions of this
211 paragraph and paragraph (e).

212 Section 14. Subsection (2) of section 464.003, Florida
213 Statutes, is amended to read:

214 464.003 Definitions.—As used in this part, the term:



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215 (2) "Advanced or specialized nursing practice" means, in
216 addition to the practice of professional nursing, the
217 performance of advanced-level nursing acts approved by the board
218 which, by virtue of postbasic specialized education, training,
219 and experience, are appropriately performed by an advanced
220 registered nurse practitioner. Within the context of advanced or
221 specialized nursing practice, the advanced registered nurse
222 practitioner may perform acts of nursing diagnosis and nursing
223 treatment of alterations of the health status. The advanced
224 registered nurse practitioner may also perform acts of medical
225 diagnosis and treatment, prescription, and operation as
226 authorized within the framework of an established supervisory
227 protocol ~~which are identified and approved by a joint committee~~
228 ~~composed of three members appointed by the Board of Nursing, two~~
229 ~~of whom must be advanced registered nurse practitioners; three~~
230 ~~members appointed by the Board of Medicine, two of whom must~~
231 ~~have had work experience with advanced registered nurse~~
232 ~~practitioners; and the State Surgeon General or the State~~
233 ~~Surgeon General's designee. Each committee member appointed by a~~
234 ~~board shall be appointed to a term of 4 years unless a shorter~~
235 ~~term is required to establish or maintain staggered terms. The~~
236 ~~Board of Nursing shall adopt rules authorizing the performance~~
237 ~~of any such acts approved by the joint committee. Unless~~
238 ~~otherwise specified by the joint committee, such acts must be~~
239 ~~performed under the general supervision of a practitioner~~
240 ~~licensed under chapter 458, chapter 459, or chapter 466 within~~
241 ~~the framework of standing protocols which identify the medical~~
242 ~~acts to be performed and the conditions for their performance.~~
243 The department may, by rule, require that a copy of the protocol



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244 be filed with the department along with the notice required by
245 s. 458.348.

246 Section 15. Subsection (6) is added to section 464.012,
247 Florida Statutes, to read:

248 464.012 Certification of advanced registered nurse
249 practitioners; fees; controlled substance prescribing.—

250 (6) (a) The board shall establish a committee to recommend a
251 formulary of controlled substances that an advanced registered
252 nurse practitioner may not prescribe or may prescribe only for
253 specific uses or in limited quantities. The committee must
254 consist of three advanced registered nurse practitioners
255 licensed under s. 464.012, recommended by the Board of Nursing;
256 three physicians licensed under chapter 458 or chapter 459 who
257 have had work experience with advanced registered nurse
258 practitioners, recommended by the Board of Medicine; and a
259 pharmacist licensed under chapter 465 who holds a Doctor of
260 Pharmacy degree, recommended by the Board of Pharmacy. The
261 committee may recommend an evidence-based formulary applicable
262 to all advanced registered nurse practitioners, which is limited
263 by specially certification or to approved uses of controlled
264 substances, or subject to other similar restrictions the
265 committee finds are necessary to protect the health, safety, and
266 welfare of the public. The formulary must restrict the
267 prescribing of psychiatric mental health controlled substances
268 for children under 18 years of age to psychiatric nurses as
269 defined in s. 394.455. The formulary must also limit the
270 prescribing of Schedule II controlled substances as defined in
271 s. 893.03 to a 7-day supply, except that such restriction does
272 not apply to controlled substances that are psychiatric



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273 medications prescribed by psychiatric nurses as defined in s.
274 394.455.

275 (b) The board shall adopt by rule the recommended formulary
276 and recommended additions or deletions to the formulary which it
277 finds are supported by evidence-based clinical findings
278 presented by the Board of Medicine, the Board of Osteopathic
279 Medicine, or the Board of Dentistry.

280 (c) The formulary required under this subsection does not
281 apply to a controlled substance order that is dispensed for
282 administration including orders for medication authorized in
283 subparagraph (4) (a)3. or subparagraph (4) (a)4.

284 (d) The board shall adopt the committee's initial
285 recommendation no later January 1, 2016.

286 Section 16. Effective January 1, 2016, subsection (3) of
287 section 464.012, Florida Statutes, is amended to read:

288 464.012 Certification of advanced registered nurse
289 practitioners; fees; controlled substance prescribing.-

290 (3) An advanced registered nurse practitioner shall perform
291 those functions authorized in this section within the framework
292 of an established protocol that is filed with the board upon
293 biennial license renewal and within 30 days after entering into
294 a supervisory relationship with a physician or changes to the
295 protocol. The board shall review the protocol to ensure
296 compliance with applicable regulatory standards for protocols.
297 The board shall refer to the department licensees submitting
298 protocols that are not compliant with the regulatory standards
299 for protocols. A practitioner currently licensed under chapter
300 458, chapter 459, or chapter 466 shall maintain supervision for
301 directing the specific course of medical treatment. Within the



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302 established framework, an advanced registered nurse practitioner
303 may:

304 (a) Prescribe, dispense, administer, or order any drug;
305 however, an advanced registered nurse practitioner may only
306 prescribe or dispense a controlled substance as defined in s.
307 893.03 if the advanced registered nurse practitioner has
308 graduated from a program leading to a master's degree in a
309 clinical nursing specialty area with training in specialized
310 practitioner skills. ~~Monitor and alter drug therapies.~~

311 (b) Initiate appropriate therapies for certain conditions.

312 (c) Perform additional functions as may be determined by
313 rule in accordance with s. 464.003(2).

314 (d) Order diagnostic tests and physical and occupational
315 therapy.

316 Section 17. Subsection (3) of section 464.013, Florida
317 Statutes, is amended to read:

318 464.013 Renewal of license or certificate.—

319 (3) The board shall by rule prescribe up to 30 hours of
320 continuing education biennially as a condition for renewal of a
321 license or certificate.

322 (a) A nurse who is certified by a health care specialty
323 program accredited by the National Commission for Certifying
324 Agencies or the Accreditation Board for Specialty Nursing
325 Certification is exempt from continuing education requirements.
326 The criteria for programs must ~~shall~~ be approved by the board.

327 (b) Notwithstanding the exemption in paragraph (a), as part
328 of the maximum 30 hours of continuing education hours required
329 under this subsection, advanced registered nurse practitioners
330 certified under s. 464.012 must complete at least 3 hours of



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331 continuing education on the safe and effective prescription of
332 controlled substances. Such continuing education courses must be
333 offered by a statewide professional association of physicians in
334 this state accredited to provide educational activities
335 designated for the American Medical Association Physician's
336 Recognition Award Category 1 Credit, the American Nurses
337 Credentialing Center, or the American Association of Nurse
338 Practitioners and may be offered in a distance-learning format.

339 Section 18. Paragraph (p) is added to subsection (1) of
340 section 464.018, Florida Statutes, and subsection (2) of that
341 section is republished, to read:

342 464.018 Disciplinary actions.—

343 (1) The following acts constitute grounds for denial of a
344 license or disciplinary action, as specified in s. 456.072(2):

345 (p) For an advanced registered nurse practitioner:

346 1. Presigning blank prescription forms.

347 2. Prescribing for office use any medicinal drug appearing
348 on Schedule II in chapter 893.

349 3. Prescribing, ordering, dispensing, administering,
350 supplying, selling, or giving a drug that is an amphetamine or a
351 sympathomimetic amine drug, or a compound designated pursuant to
352 chapter 893 as a Schedule II controlled substance, to or for any
353 person except for:

354 a. The treatment of narcolepsy; hyperkinesis; behavioral
355 syndrome in children characterized by the developmentally
356 inappropriate symptoms of moderate to severe distractibility,
357 short attention span, hyperactivity, emotional lability, and
358 impulsivity; or drug-induced brain dysfunction.

359 b. The differential diagnostic psychiatric evaluation of



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360 depression or the treatment of depression shown to be refractory
361 to other therapeutic modalities.

362 c. The clinical investigation of the effects of such drugs
363 or compounds when an investigative protocol is submitted to,
364 reviewed by, and approved by the department before such
365 investigation is begun.

366 4. Prescribing, ordering, dispensing, administering,
367 supplying, selling, or giving growth hormones, testosterone or
368 its analogs, human chorionic gonadotropin (HCG), or other
369 hormones for the purpose of muscle building or to enhance
370 athletic performance. As used in this subparagraph, the term
371 "muscle building" does not include the treatment of injured
372 muscle. A prescription written for the drug products listed in
373 this paragraph may be dispensed by a pharmacist with the
374 presumption that the prescription is for legitimate medical use.

375 5. Promoting or advertising on any prescription form a
376 community pharmacy unless the form also states: "This
377 prescription may be filled at any pharmacy of your choice."

378 6. Prescribing, dispensing, administering, mixing, or
379 otherwise preparing a legend drug, including a controlled
380 substance, other than in the course of his or her professional
381 practice. For the purposes of this subparagraph, it is legally
382 presumed that prescribing, dispensing, administering, mixing, or
383 otherwise preparing legend drugs, including all controlled
384 substances, inappropriately or in excessive or inappropriate
385 quantities is not in the best interest of the patient and is not
386 in the course of the advanced registered nurse practitioner's
387 professional practice, without regard to his or her intent.

388 7. Prescribing, dispensing, or administering a medicinal



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389 drug appearing on any schedule set forth in chapter 893 to
390 himself or herself, except a drug prescribed, dispensed, or
391 administered to the advanced registered nurse practitioner by
392 another practitioner authorized to prescribe, dispense, or
393 administer medicinal drugs.

394 8. Prescribing, ordering, dispensing, administering,
395 supplying, selling, or giving amygdalin (laetrile) to any
396 person.

397 9. Dispensing a controlled substance listed on Schedule II
398 or Schedule III in chapter 893 in violation of s. 465.0276.

399 10. Promoting or advertising through any communication
400 medium the use, sale, or dispensing of a controlled substance
401 appearing on any schedule in chapter 893.

402 (2) The board may enter an order denying licensure or
403 imposing any of the penalties in s. 456.072(2) against any
404 applicant for licensure or licensee who is found guilty of
405 violating any provision of subsection (1) of this section or who
406 is found guilty of violating any provision of s. 456.072(1).

407
408 ===== T I T L E A M E N D M E N T =====

409 And the title is amended as follows:

410 Delete lines 908 - 952

411 and insert:

412 standards of practice; providing applicability;
413 amending s. 458.326, F.S.; defining the term
414 "interventional pain medicine"; restricting the
415 practice of interventional pain medicine to specified
416 circumstances; amending ss. 458.3265 and 459.0137,
417 F.S.; limiting the authority to prescribe a controlled



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418 substance in a pain-management clinic to a physician
419 licensed under ch. 458 or ch. 459, F.S.; amending s.
420 458.347, F.S.; revising the required continuing
421 education requirements for a physician assistant;
422 amending s. 458.347, F.S.; requiring the Council of
423 Physician Assistants to create a formulary which
424 includes the controlled substances a physician
425 assistant is authorized to prescribe; amending s.
426 464.003, F.S.; redefining the term "advanced or
427 specialized nursing practice"; removing the joint
428 committee established in the definition; amending s.
429 464.012, F.S.; requiring the Board of Nursing to
430 establish a committee to make recommendations
431 regarding the need for adoption of a formulary of
432 controlled substances that may be prescribed by an
433 advanced registered nurse practitioner; specifying the
434 membership of the committee; providing parameters for
435 the recommendations of the committee; requiring that
436 any formulary be adopted by board rule; specifying the
437 process for amending the formulary and imposing a
438 burden of proof; limiting the formulary's application
439 in certain instances; requiring the board to adopt the
440 committee's initial recommendations by a specified
441 date; amending s. 464.012, F.S.; authorizing an
442 advanced registered nurse practitioner to prescribe,
443 dispense, administer, or order drugs, rather than to
444 monitor and alter drug therapies; providing an
445 exception; amending s. 464.013, F.S.; revising
446 conditions for renewal of a license or certificate;



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447 amending s. 464.018, F.S.; specifying acts that
448 constitute grounds for denial of a license or for
449 disciplinary action against an advanced registered
450 nurse practitioner;