

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 974

INTRODUCER: Senator Sobel

SUBJECT: Hair Restoration or Transplant

DATE: January 7, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------------|----------------|-----------|------------------|
| 1. | Rossitto-Van Winkle | Stovall | HP | Favorable |
| 2. | _____ | _____ | AHS | _____ |
| 3. | _____ | _____ | FP | _____ |

I. Summary:

SB 974 prohibits anyone other than a physician or physician assistant (PA) licensed under the medical practice act or the osteopathic practice act, or an advanced registered nurse practitioner (ARNP), from performing a hair restoration or transplant, or making incisions for the purpose of performing the hair restoration or transplant. Hair restoration or transplant is defined as a surgical procedure that extracts or removes hair follicles from one location on a person's body to another location on that person's body. The bill has the effect of restricting a physician from delegating certain aspects of a hair transplant or hair restoration surgery to only a PA or an ARNP.

II. Present Situation:

Hair Restoration Procedures

There are several techniques a physician can employ to restore hair to bald or balding portions of the human scalp. The most recently developed procedure is the follicular unit transplant. This procedure involves the removal of a strip of tissue from the donor area of a patient's scalp which is then divided into a number of individual follicular units. The physician then grafts the individual follicular units into tiny holes made in the bald area of the scalp called recipient sites.¹

Another type of hair restoration procedure is the bald scalp reduction procedure. As implied by the name, a bald scalp reduction procedure entails the removal of a bald area of the patient's scalp, and hair-producing areas of the scalp are stretched to cover the area removed. A similar procedure, the scalp flap surgery, involves the cutting and grafting of an entire flap of hair-producing scalp onto a bald area of the scalp. Both bald scalp reduction and scalp flap surgeries

¹ Bernstein Medical Center for Hair Restoration, *Follicular Unit Transplant*, available at <http://www.bernsteinmedical.com/fut-hair-transplant/> (last visited on Jan. 7, 2016).

can have rapid results, but the follicular unit transplant surgery is generally preferred due to the more natural look produced by the follicular unit transplant surgery and the risk of scarring or failure inherent with bald scalp reduction and scalp flap surgeries.²

Tissue or scalp expansion procedures can also be used to restore bald areas of the scalp. Tissue expansion uses a balloon, called an expander, to stretch the skin in order to create extra skin which can be removed and grafted onto the bald area. Tissue expansion can be used for scalp repair since the stretched skin on the scalp retains normal hair growth.³

Regulation of Physician Assistants in Florida

Chapter 458, F.S., provides for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly provides for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.⁴

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.⁵ The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct⁶ and indirect⁷ supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁸ Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.⁹

² Foundation for Hair Restoration, *Bald Scalp Reduction and Scalp Flap Surgery*, available at <http://www.foundhair.com/pages/baldScalp.shtml> (last visited on Jan. 7, 2016).

³ University of Pittsburgh Medical Center, Children's Hospital of Pittsburgh, *Tissue Expansion*, available at: <http://www.chp.edu/our-services/plastic-surgery/patient-procedures/tissue-expansion> (last visited on Jan. 7, 2016).

⁴ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (See s. 458.347(9) and s. 459.022(9), F.S.).

⁵ Section 458.347(4) and s. 459.022(4), F.S.

⁶ "Direct supervision" requires the physician to be on the premises and immediately available. (See Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.)

⁷ "Indirect supervision" refers to the easy availability of the supervising physician to the PA, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (See Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)

⁸ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

⁹ Section 458.347(3) and s. 459.022(3), F.S.

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing (BON).¹⁰

An ARNP is a licensed nurse who is certified in advanced or specialized nursing.¹¹ Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).¹² To be certified as an ARNP, a nurse must hold a current license as a registered nurse¹³ and submit proof to the BON that he or she meets one of the following requirements:¹⁴

- Satisfactory completion of a formal post-basic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;¹⁵ or
- Graduation from a master's degree program in a nursing clinical specialty area with preparation in specialized practitioner skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician or dentist. Within the established framework of the protocol, an ARNP may:¹⁶

- Monitor and alter drug therapies;
- Initiate appropriate therapies for certain conditions; and
- Order diagnostic tests and physical and occupational therapy.

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).¹⁷

An ARNP must meet financial responsibility requirements, as determined by rule of the BON and the practitioner profiling requirements.¹⁸ The BON requires professional liability coverage of

¹⁰ The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (*See* s. 464.004(2), F.S.)

¹¹ "Advanced or specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the BON which, by virtue of post basic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (*See* s. 464.003(2), F.S.)

¹² Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (*See* s. 464.003(7) and s. 464.0115, F.S.).

¹³ Practice of professional nursing. (*See* s. 464.003(20), F.S.).

¹⁴ Section 464.012(1), F.S.

¹⁵ Specialty boards expressly recognized by the BON include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (*See* Rule 64B9-4.002(2), F.A.C.).

¹⁶ Section 464.012(3), F.S.

¹⁷ Section 464.012(4), F.S.

¹⁸ Sections 456.0391 and 456.041, F.S.

at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.¹⁹

III. Effect of Proposed Changes:

SB 974 creates new sections of law relating to hair restoration or transplant in the medical practice act, ch. 458, F.S., and the osteopathic medical practice act, ch. 459, F.S. The bill defines hair restoration or transplant to mean a surgical procedures that extracts or removes hair follicles from one location on a person's body for the purpose of redistributing the hair follicles to another location on that body.

The bill prohibits anyone other than a physician or PA licensed under either practice act or an ARNP from performing a health restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant. This has the effect of restricting a physician from delegating certain aspects of a hair transplant or hair restoration surgery to only a PA or an ARNP.

The effective date of the bill is July 1, 2016.

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:

None.

C. Government Sector Impact:

None.

¹⁹ Rule 64B9-4.002(5), F.A.C.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 458.352 and 459.027.

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.