

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 Appropriations

BILL: CS/SB 1594

INTRODUCER: Health Policy Committee and Senator Brandes

SUBJECT: Nursing

DATE: February 21, 2018

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Stovall</u> | <u>Stovall</u> | <u>HP</u> | <u>Fav/CS</u> |
| 2. | <u>Loe</u> | <u>Hansen</u> | <u>AP</u> | <u>Favorable</u> |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1594 changes the title of “advanced registered nurse practitioner” (ARNP) to “advanced practice registered nurse” (APRN) throughout the Florida Statutes. Instead of being certified to practice in this state as currently required for ARNPs, the bill requires APRNs to be licensed.

The bill repeals the clinical nurse specialist (CNS) license and incorporates the CNS specialty certification into APRN licensure. All authorizations granted to, and requirements of, APRNs will be applicable to a CNS, including but not limited to, the authority to prescribe controlled substances under certain parameters and to maintain medical malpractice insurance.

The bill will increase workload in the Department of Health (DOH); however, the costs associated with this increased workload will be absorbed within DOH’s existing resources.

The effective date of the bill is October 1, 2018.

II. Present Situation:

Part I of ch. 464, F.S., the Nurse Practice Act, governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH)¹ and regulated by the Board of Nursing (BON).²

A person desiring to practice nursing in Florida must obtain a Florida license by examination,³ endorsement,⁴ or holding an active multistate license pursuant to s. 464.0095, F.S., the Nurse Licensure Compact.⁵

Advanced Registered Nurse Practitioner (ARNP)

An ARNP is a person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, and includes certified registered nurse anesthetists (CRNAs), psychiatric nurses, certified nurse midwives (CNM), and nurse practitioners.⁶

Advanced or specialized nursing practice means, in addition to the practice of professional nursing, 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 ARNP. Within the context of advanced or specialized nursing practice, the ARNP may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The ARNP may also perform acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol.⁷ In addition, within a supervisory protocol, an ARNP may:

- Prescribe, dispense, administer, or order any drug; however, an ARNP must have graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills to prescribe controlled substances;
- Order diagnostic tests and physical and occupational therapy;
- Order any medication for administration in a hospital, ambulatory surgical center, or nursing home; and

¹ Section 464.008, F.S.

² The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve four-year terms. All members must be residents of the state. Seven members must be registered nurses who are representative of the diverse areas of practice within the nursing profession. Three members must be licensed practical nurses and three members must be laypersons. At least one member of the BON must be 60 years of age or older. *See* Section 464.004, F.S.

³ An individual must pass the National Council Licensure Examination (NCLEX), have graduated from an approved nursing education program, and pass applicable background screening. *See* s. 464.008, F.S.

⁴ Licensed in another state or territory, actively practiced nursing for two of the previous three years prior to application without discipline, and meet the equivalent educational and examination qualifications.

⁵ In 2016, the Legislature created s. 464.0095, F.S., which adopts the revised Nurse Licensure Compact (NLC) in its entirety into state law. This legislation allows licensed practical and professional nurses to practice in all member states by maintaining a single license in the nurse's primary state of residence. The effective date of s. 464.0095, F.S., was December 31, 2018, or upon enactment of the revised NLC into law by 26 states, whichever occurs first. At least 26 states have enacted the revised NLC into law and the Enhanced Nurse Licensure Compact Interstate Commission set the implementation date as January 19, 2018. The DOH and the Florida BON have implemented the NLC. *See* <http://floridasnursing.gov/latest-news/the-enlc-was-implemented-on-january-19-2018/> (last visited Jan. 25, 2018).

⁶ *See* ss. 464.003(3) and 464.012(1)(a), F.S.

⁷ Section 464.003(2), F.S.

- Perform additional acts within his or her specialty.⁸

An ARNP must maintain medical malpractice insurance or provide proof of financial responsibility, unless exempt.⁹

Any nurse desiring to obtain Florida certification as an ARNP must submit to the DOH, among other information, proof that he or she holds a current Florida professional nursing license as an RN or holds an active multistate license to practice professional nursing, and meets at least one of the following additional requirements:

- Certification by an appropriate specialty board such as a registered nurse anesthetist, psychiatric nurse, or nurse midwife; or
- Graduation from a nursing program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. An applicant graduating on or after October 1, 1998, must meet this requirement for initial certification as a nurse practitioner. An applicant graduating on or after October 1, 2001, must meet this requirement for initial certification as a CRNA¹⁰

As of June 30, 2017, there were 27,705 certified ARNPs and 32 ARNP/CNSs certified in Florida.¹¹

Clinical Nurse Specialists

Clinical nurse specialist practice (CNP) means the delivery and management of advanced practice nursing care to individuals or groups, including the ability to:

- Assess the health status of individuals and families using methods appropriate to the population and area of practice.
- Diagnose human responses to actual or potential health problems.
- Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
- Implement therapeutic interventions based on the nurse specialist's area of expertise and within the scope of advanced nursing practice, including, but not limited to, direct nursing care, counseling, teaching, and collaboration with other licensed health care providers.
- Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.¹²

A nurse seeking certification as a clinical nurse specialist must submit to the DOH proof that he or she holds a current Florida professional nursing license as an RN, a master's degree in a clinical nursing specialty, and either:

- Current certification in a specialty area as a clinical nurse specialist from a nationally recognized certifying body; or

⁸ Section 464.012(3) and (4), F.S.

⁹ Section 456.048, F.S.

¹⁰ Section 464.012(1), F.S., as amended by Ch. 2017-134, Laws of Fla.

¹¹ Department of Health, Division of Medical Quality Assurance *Annual Report & Long-Range Plan Fiscal Year 2016-2017* available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1617.pdf>, p. 12 (last visited Jan. 25, 2018)

¹² Section 464.003(7), F.S.

- 1000 hours of clinical experience in the clinical specialty in which he or she is academically prepared, with at least 500 hours of clinical practice after graduation, if the master's degree is in a specialty area for which there is no certification within the clinical nurse specialist role and specialty.

As of June 30, 2017, there were 182 CNSs certified in Florida.¹³

APRN Title Nationally

Currently 36 states use the APRN title.¹⁴ The National Council of State Boards of Nursing's Consensus Model for APRN Regulation recommends, among other things, using the title of APRN and state recognition of four categories of APRN: CNS, CNP, CRNA, and CNM.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 464.003, F.S., to define the term "advanced practice registered nurse" to mean any person licensed in this state to practice professional nursing and who is licensed in an advanced nursing practice, including certified nurse midwives (CNMs), certified nurse practitioners, certified registered nurse anesthetists (CRNAs), clinical nurse specialists (CNSs), and psychiatric nurses.

The definitions of "clinical nurse specialist" and "clinical nurse specialist practice" are deleted.

Section 2 repeals s. 464.0115, F.S., relating to the certification of clinical nurse specialists.

Section 3 amends s. 464.012, F.S., to create a licensure structure instead of a certification process for the renamed advanced practice registered nurse (APRN).

Clinical nurse specialists are added to the provisions applicable to licensure as an APRN. This will require the APRN/CNS to maintain medical malpractice insurance, or provide proof of financial responsibility, which is not currently required for a CNS.¹⁶ The APRN/CNS will be authorized to prescribe controlled substances if qualified, and in accordance with the limitations applicable to other categories of APRN.¹⁷

One of the requirements for licensure and licensure renewal is certification by an appropriate specialty board. The bill identifies the acceptable categories of certifications to include certified nurse midwife, certified nurse practitioner, certified registered nurse anesthetist, clinical nurse

¹³ *Id.* at p. 13.

¹⁴ National Council of State Boards of Nursing, *APRN Title Map*, (last updated 9/27/2017), available at <https://ncsbn.org/5398.htm> (last visited Jan. 25, 2018).

¹⁵ National Council of State Boards of Nursing, *ARNP Campaign for Consensus: Moving Toward Uniformity in State Laws*, available at <https://ncsbn.org/campaign-for-consensus.htm> (last visited Jan. 25, 2018).

¹⁶ Section 456.048, F.S.

¹⁷ Prescribing privileges: are limited to a seven-day supply for controlled substances listed in Schedule II; do not include the prescribing of psychotropic medications for children under 18 years of age, unless prescribed by a psychiatric nurse; and do not extend to prescribing in a pain management clinic. The APRN/CNS will also be subject to the disciplinary actions applicable to an ARNP (APRN under this bill). *See* ss. 456.44, 458.3265(2)(b), 459.0137(2)(b), 464.012(3)(a) and (6), and 464.018, F.S.

specialist, or psychiatric nurse. The bill authorizes the BON, by rule, to provide for provisional state licensure of all five categories of specialization to allow for passing the national certification examination.

The bill adds a new requirement for the initial licensure of a CNM or CNS as an APRN. Proof of graduation from a master’s degree program is required if the applicant graduated on or after October 1, 1998, and is seeking licensure as a CNM or if the applicant graduated on or after July 1, 2007, and is seeking licensure as a CNS.

Practice parameters for each category of APRN and conforming references to the categories and the APRN title are provided in this section.

The bill requires the DOH and the BON to establish a transition plan for converting a certificate holder in good standing to a licensee. The bill authorizes an ARNP or a CNS holding a certificate to practice that is in good standing on September 30, 2018, to continue practicing with all rights, authorizations, and responsibilities under the bill for licensure as an APRN and to use the new title after the effective date of this act while the transition is completed. Applicable departmental or board disciplinary authority or enforcement responsibilities for ensuring safe nursing practice are preserved. This subsection of law expires on October 1, 2020.

Section 4 amends s. 960.28, F.S., relating to payment for victims’ initial forensic physical examinations, to conform a cross-reference.

Sections 5 through 92 amend the following sections of statute to conform the term “advanced registered nurse practitioner” to “advanced practice registered nurse” and to change the reference from certification to licensure, where appropriate:

| Bill Section | Statute Section | Title |
|---------------------|---------------------------|--|
| 5 | 39.303 | Child protection teams and sexual abuse treatment programs; services; eligible cases. |
| 6 | 39.304 | Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child. |
| 7 | 90.503 | Psychotherapist-patient privilege. |
| 8 | 110.12315 | Prescription drug program. |
| 9 | 121.0515 | Special Risk Class. |
| 10 | 252.515 | Postdisaster Relief Assistance Act; immunity from civil liability. |
| 11 | 310.071 | Deputy pilot certification. |
| 12 | 310.073 | State pilot licensing. |
| 13 | 310.081 | Department to examine and license state pilots and certificate deputy pilots; vacancies. |
| 14 | 320.0848 | Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities. |

| Bill Section | Statute Section | Title |
|---------------------|---------------------------|--|
| 15 | 381.00315 | Public health advisories; public health emergencies; isolation and quarantines. |
| 16 | 381.00593 | Public school volunteer health care practitioner program. |
| 17 | 383.14 | Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors. |
| 18 | 383.141 | Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council. |
| 19 | 384.27 | Physical examination and treatment. |
| 20 | 390.0111 | Termination of pregnancies. |
| 21 | 390.012 | Powers of agency; rules; disposal of fetal remains. |
| 22 | 394.455 | Definitions. |
| 23 | 395.0191 | Staff membership and clinical privileges. |
| 24 | 397.311 | Definitions. |
| 25 | 397.4012 | Exemptions from licensure. |
| 26 | 397.427 | Medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; penalty. |
| 27 | 397.679 | Emergency admission; circumstances justifying. |
| 28 | 397.6793 | Professional's certificate for emergency admission. |
| 29 | 400.021 | Definitions. |
| 30 | 400.462 | Definitions. |
| 31 | 400.487 | Home health service agreements; physician's, physician assistant's, and advanced registered nurse practitioner's treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate. |
| 32 | 400.506 | Licensure of nurse registries; requirements; penalties. |
| 33 | 400.9973 | Client admission, transfer, and discharge. |
| 34 | 400.9974 | Client comprehensive treatment plans; client services. |
| 35 | 400.9976 | Administration of medication. |
| 36 | 400.9979 | Restraint and seclusion; client safety. |
| 37 | 401.445 | Emergency examination and treatment of incapacitated persons. |
| 38 | 409.905 | Mandatory Medicaid services. |
| 39 | 409.908 | Reimbursement of Medicaid providers. |
| 40,41 | 409.973 | Benefits. |
| 42 | 429.918 | Licensure designation as a specialized Alzheimer's services adult day care center. |
| 43 | 456.0391 | Advanced registered nurse practitioners; information required for certification. |
| 44 | 456.0392 | Prescription labeling. |
| 45 | 456.041 | Practitioner profile; creation. |
| 46 | 456.048 | Financial responsibility requirements for certain health care practitioners. |

| Bill Section | Statute Section | Title |
|---------------------|--------------------------|--|
| 47 | 456.072 | Grounds for discipline; penalties; enforcement. |
| 48 | 456.44 | Controlled substance prescribing. |
| 49 | 458.3265 | Pain-management clinics. |
| 50 | 458.331 | Grounds for disciplinary action; action by the board and department. |
| 51 | 458.348 | Formal supervisory relationships, standing orders, and established protocols; notice; standards. |
| 52 | 459.0137 | Pain-management clinics. |
| 53 | 459.015 | Grounds for disciplinary action; action by the board and department. |
| 54 | 459.025 | Formal supervisory relationships, standing orders, and established protocols; notice; standards. |
| 55 | 464.003 | Definitions. |
| 56 | 464.004 | Board of Nursing; membership; appointment; terms. |
| 57 | 464.013 | Renewal of license or certificate. |
| 58, 59 | 464.015 | Titles and abbreviations; restrictions; penalty. |
| 60 | 464.016 | Violations and penalties. |
| 61 | 464.018 | Disciplinary actions. |
| 62 | 464.0205 | Retired volunteer nurse certificate. |
| 63 | 467.003 | Definitions. |
| 64 | 480.0475 | Massage establishments; prohibited practices. |
| 65 | 483.041 | Definitions. |
| 66 | 483.801 | Exemptions. |
| 67 | 486.021 | Definitions. |
| 68 | 490.012 | Violations; penalties; injunction. |
| 69 | 491.0057 | Dual licensure as a marriage and family therapist. |
| 70 | 491.012 | Violations; penalty; injunction. |
| 71 | 493.6108 | Investigation of applicants by Department of Agriculture and Consumer Services. |
| 72 | 627.357 | Medical malpractice self-insurance. |
| 73 | 627.6471 | Contracts for reduced rates of payment; limitations; coinsurance and deductibles. |
| 74 | 627.6472 | Exclusive provider organizations. |
| 75 | 627.736 | Required personal injury protection benefits; exclusions; priority; claims. |
| 76 | 633.412 | Firefighters; qualifications for certification. |
| 77 | 641.3923 | Discrimination against providers prohibited. |
| 78 | 766.103 | Florida Medical Consent Law. |
| 79 | 766.1115 | Health care providers; creation of agency relationship with governmental contractors. |
| 80 | 766.1116 | Health care practitioner; waiver of license renewal fees and continuing education requirements. |
| 81 | 766.118 | Determination of noneconomic damages |
| 82 | 794.08 | Female genital mutilation. |

| Bill Section | Statute Section | Title |
|---------------------|--------------------------|--|
| 83 | 893.02 | Definitions. |
| 84 | 893.05 | Practitioners and persons administering controlled substances in their absence. |
| 85 | 943.13 | Officers' minimum qualifications for employment or appointment. |
| 86 | 948.03 | Terms and conditions of probation. |
| 87 | 1002.20 | K-12 student and parent rights. |
| 88 | 1002.42 | Private schools. |
| 89 | 1006.062 | Administration of medication and provision of medical services by district school board personnel. |
| 90 | 1009.65 | Medical Education Reimbursement and Loan Repayment Program. |
| 91 | 1009.66 | Nursing Student Loan Forgiveness Program. |
| 92 | 1009.67 | Nursing scholarship program. |

Section 93 provides for an effective date of October 1, 2018.

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:

Currently certified CNSs (168 are in an active status) who wish to become licensed as an APRN will incur a \$100 APRN licensure fee. However, the renewal fee as an APRN will be slightly less on a recurring basis because the current ARNP renewal fee is \$25 less than the CNS renewal fee. The APRN/CNS will incur a cost to meet the financial responsibility requirements of the bill.

C. Government Sector Impact:

The bill will increase workload in the DOH; however, the DOH indicates that the costs associated with this increased workload may be absorbed within its existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 105-111 authorize the BON to provide for provisional state licensure of CRNAs, CNSs, CNPs, psychiatric nurses and CNMs for a period of time to allow for preparing for and passing the national certification examination. This language is unclear. Under the bill, licensure is as an APRN, not in the individual categories of specialized practice for which certification is required.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 464.003, 464.012, 960.28, 39.303, 39.304, 90.503, 110.12315, 121.0515, 252.515, 310.071, 310.073, 310.081, 320.0848, 381.00315, 381.00593, 383.14, 383.141, 384.27, 390.0111, 390.012, 394.455, 395.0191, 397.311, 397.4012, 397.427, 397.679, 397.6793, 400.021, 400.462, 400.487, 400.506, 400.9973, 400.9974, 400.9976, 400.9979, 401.445, 409.905, 409.908, 409.973, 429.918, 456.0391, 456.0392, 456.041, 456.048, 456.072, 456.44, 458.3265, 458.331, 458.348, 459.0137, 459.015, 459.025, 464.003, 464.004, 464.013, 464.015, 464.016, 464.018, 464.0205, 467.003, 480.0475, 483.041, 483.801, 486.021, 490.012, 491.0057, 491.012, 493.6108, 627.357, 627.6471, 627.6472, 627.736, 633.412, 641.3923, 766.103, 766.1115, 766.1116, 766.118, 794.08, 893.02, 893.05, 943.13, 948.03, 1002.20, 1002.42, 1006.062, 1009.65, 1009.66, and 1009.67.

This bill repeals section 464.0115 of the Florida Statutes.

This bill substantially amends Chapter 2016-109, Laws of Florida.

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

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

CS by Health Policy on January 30, 2018

The CS:

- Removed a pathway for licensure added in the bill, which had been repealed last year as obsolete;
- Added practice parameters for CNSs which were listed in the repealed certification of CNSs section of law that was inadvertently omitted when the licensure of CNSs was merged into APRN licensure;
- Removed sections in the bill that had become unnecessary since the Nurse Licensure Compact found in s. 464.0095, F.S., is now effective;

- Required a transition plan from certification to licensure and authorized practitioners to continue practicing after the effective date of the bill, under specified conditions;
- Reorganized certain provisions for uniformity and corrected grammatical and technical errors; and
- Changed the effective date of the bill from July 1, 2018, to October 1, 2018.

B. Amendments:

None.

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