

1 A bill to be entitled
2 An act relating to health care practitioner
3 prescribing practices; amending s. 456.44, F.S.;
4 requiring health care practitioners to refer or
5 prescribe nonpharmaceutical intervention therapies for
6 chronic nonmalignant pain before prescribing an
7 opioid; requiring a licensed massage therapist to
8 maintain and submit certain patient records to the
9 practitioner; authorizing a practitioner to prescribe
10 an opioid to a patient before all such therapies are
11 exhausted; requiring insurance providers to cover a
12 specific number of visits per referral or prescription
13 for such therapy; authorizing a patient to seek such
14 therapies before seeking treatment from a
15 practitioner; providing for insurance coverage without
16 a practitioner's referral or prescription; providing
17 cost requirements; providing construction; requiring
18 applicable boards to adopt rules for referring and
19 prescribing such therapies for acute pain; amending s.
20 627.413, F.S.; revising insurance policy contents to
21 include coverage for a specific number of visits per
22 referral or prescription for nonpharmaceutical
23 intervention therapy; providing cost and payment
24 requirements; amending s. 641.201, F.S.; requiring
25 certain governance of health maintenance

26 organizations; providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Paragraphs (a) through (c) of subsection (3) of
 31 section 456.44, Florida Statutes, are redesignated as paragraphs
 32 (f) through (h), respectively, new paragraphs (a) through (e)
 33 are added to subsection (3), and subsection (4) of that section
 34 is amended, to read:

35 456.44 Controlled substance prescribing.—

36 (3) STANDARDS OF PRACTICE FOR TREATMENT OF CHRONIC
 37 NONMALIGNANT PAIN.—The standards of practice in this section do
 38 not supersede the level of care, skill, and treatment recognized
 39 in general law related to health care licensure.

40 (a) Before prescribing an opioid as treatment for any
 41 condition that causes chronic nonmalignant pain, a health care
 42 practitioner shall refer or prescribe any of the following
 43 nonpharmaceutical intervention therapies to a patient based on
 44 the practitioner's clinical judgment and the availability of the
 45 treatment: acupuncture by an acupuncturist licensed under
 46 chapter 457, osteopathic services by an osteopathic physician
 47 licensed under chapter 459, chiropractic services by a
 48 chiropractor licensed under chapter 460, occupational therapy by
 49 an occupational therapist licensed under part III of chapter
 50 468, or massage therapy by a massage therapist licensed under

51 chapter 480. A licensed massage therapist to whom a patient has
52 been referred or prescribed shall maintain and submit to the
53 referring or prescribing health care practitioner all records of
54 treatments performed and the patient's progress, improvement, or
55 lack of improvement.

56 (b) This section does not prohibit a health care
57 practitioner from prescribing an opioid to a patient before all
58 nonpharmaceutical intervention therapies in paragraph (a) are
59 exhausted.

60 (c) At a minimum, an insurance provider that offers an
61 insurance product in this state shall provide coverage for at
62 least 20 visits per referral or prescription for
63 nonpharmaceutical intervention therapy, including acupuncture by
64 a licensed acupuncturist, osteopathic services by a licensed
65 osteopathic physician, chiropractic services by a licensed
66 chiropractor, occupational therapy by a licensed occupational
67 therapist, or massage therapy by a licensed massage therapist,
68 if referred or prescribed by a health care practitioner to treat
69 conditions that cause chronic nonmalignant pain.

70 (d) A patient may seek treatment for acupuncture,
71 osteopathic services, chiropractic services, occupational
72 therapy, or massage therapy, as defined in chapter 457, chapter
73 459, chapter 460, part III of chapter 468, or chapter 480,
74 respectively, before seeking treatment from a health care
75 practitioner. A health care practitioner referral or

76 prescription is not required as a condition of coverage by any
77 insurance provider that offers an insurance product in this
78 state. Any deductible, coinsurance, or co-pay required for any
79 of these therapies may not be greater than the deductible,
80 coinsurance, or co-pay required for a primary care visit.

81 (e) This section does not prohibit a health care
82 practitioner from simultaneously prescribing an opioid and
83 referring or prescribing any of the nonpharmaceutical
84 intervention therapies in paragraph (a).

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86 This subsection does not apply to a board-eligible or board-
87 certified anesthesiologist, physiatrist, rheumatologist, or
88 neurologist, or to a board-certified physician who has surgical
89 privileges at a hospital or ambulatory surgery center and
90 primarily provides surgical services. This subsection does not
91 apply to a board-eligible or board-certified medical specialist
92 who has also completed a fellowship in pain medicine approved by
93 the Accreditation Council for Graduate Medical Education or the
94 American Osteopathic Association, or who is board eligible or
95 board certified in pain medicine by the American Board of Pain
96 Medicine, the American Board of Interventional Pain Physicians,
97 the American Association of Physician Specialists, or a board
98 approved by the American Board of Medical Specialties or the
99 American Osteopathic Association and performs interventional
100 pain procedures of the type routinely billed using surgical

101 codes. This subsection does not apply to a registrant who
102 prescribes medically necessary controlled substances for a
103 patient during an inpatient stay in a hospital licensed under
104 chapter 395.

105 (4) STANDARDS OF PRACTICE FOR TREATMENT OF ACUTE PAIN.—The
106 applicable boards shall adopt rules establishing guidelines for
107 referring and prescribing nonpharmaceutical intervention
108 therapies, including acupuncture, osteopathic services,
109 chiropractic services, occupational therapy, or massage therapy,
110 and prescribing controlled substances for acute pain, including
111 evaluation of the patient, creation and maintenance of a
112 treatment plan, obtaining informed consent and agreement for
113 treatment, periodic review of the treatment plan, consultation,
114 medical record review, and compliance with controlled substance
115 laws and regulations. Failure of a prescriber to follow such
116 guidelines constitutes grounds for disciplinary action pursuant
117 to s. 456.072(1)(gg), punishable as provided in s. 456.072(2).

118 Section 2. Paragraph (h) is added subsection (1) of
119 section 627.413, Florida Statutes, to read:

120 627.413 Contents of policies, in general; identification.—

121 (1) Every policy shall specify:

122 (h) The requirements in s. 456.44 regarding treatment of
123 chronic nonmalignant or acute pain and:

124 1. Cover at least 20 visits per referral or prescription
125 for nonpharmaceutical intervention therapy, including

126 acupuncture, osteopathic services, chiropractic services,
127 occupational therapy, or massage therapy, if prescribed or
128 referred by a health care practitioner to treat conditions that
129 cause chronic nonmalignant or acute pain.

130 2. Ensure that any deductible, coinsurance, or co-pay
131 required for any of these therapies is not greater than the
132 deductible, coinsurance, or co-pay required for a primary care
133 visit.

134 3. Ensure that any limitation or condition placed upon
135 payment to, or upon services, diagnosis, or treatment by, any
136 licensed physician shall apply equally to all licensed
137 physicians without unfair discrimination to the usual and
138 customary treatment procedures of any class of physicians.

139 Section 3. Section 641.201, Florida Statutes, is amended
140 to read:

141 641.201 Applicability of other laws.—Except as provided in
142 this part, health maintenance organizations shall be governed by
143 the provisions of this part, ~~and~~ part III of this chapter, and
144 s. 627.413(1)(h) and shall be exempt from all other provisions
145 of the Florida Insurance Code except those provisions of the
146 Florida Insurance Code that are explicitly made applicable to
147 health maintenance organizations.

148 Section 4. This act shall take effect July 1, 2019.