

By Senator Osgood

32-00352B-24

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1 A bill to be entitled
2 An act relating to psychiatric treatments; amending s.
3 458.325, F.S.; defining the terms "electroconvulsive
4 treatment" and "psychosurgical procedure"; providing
5 that only a physician may perform electroconvulsive
6 treatment and psychosurgical procedures; prohibiting
7 the performance of electroconvulsive treatment and
8 psychosurgical procedures on minors; making technical
9 changes; providing an effective date.

10
11 WHEREAS, electroconvulsive therapy (ECT) is an experimental
12 technique the efficacy of which has not definitively been proven
13 and which has dangerous and potentially permanent harmful or
14 life-threatening side effects, including brain damage and memory
15 loss, the extent of which is still unknown, and

16 WHEREAS, literature regarding the administration of ECT on
17 children and adolescents consists mainly of single case study
18 reports and uncontrolled studies and does not offer controlled
19 studies, reliably applied criteria, or valid assessment scales,
20 and

21 WHEREAS, psychosurgery is an experimental technique the
22 efficacy of which has not been proven and which has dangerous
23 and potentially permanent harmful or life-threatening side
24 effects, and

25 WHEREAS, the use of invasive and possibly damaging
26 treatment without scientific basis in the context of the still-
27 developing neurological systems of children and adolescents
28 cannot be justified, and

29 WHEREAS, on January 20, 2000, the National Council on

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30 Disability (NCD), an independent federal agency, first made
31 recommendations to the President and Congress which included the
32 following: "Mental health treatment should be about healing, not
33 punishment. Accordingly, the use of aversive treatments,
34 including physical and chemical restraints, seclusion, and
35 similar techniques that restrict freedom of movement, should be
36 banned. Also, public policy should move toward the elimination
37 of electroconvulsive therapy and psychosurgery as unproven and
38 inherently inhumane procedures. Effective humane alternatives to
39 these techniques exist now and should be promoted," and
40 continues to stand by this recommendation 23 years later, NOW,
41 THEREFORE,

42

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

44

45 Section 1. Section 458.325, Florida Statutes, is amended to
46 read:

47 458.325 Electroconvulsive treatment and psychosurgical
48 procedures.—

49 (1) As used in this section, the term:

50 (a) "Electroconvulsive treatment" means psychiatric
51 treatment that involves sending an electric current through the
52 brain while the patient is under anesthesia.

53 (b) "Psychosurgical procedure" means neurological surgery
54 used to treat a mental disorder.

55 (2) Only a physician may perform electroconvulsive
56 treatment and psychosurgical procedures.

57 (3) Electroconvulsive treatment and psychosurgical
58 procedures may not be performed on a person younger than 18

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59 years of age.

60 (4) Before performing ~~In each case of utilization of~~
61 ~~electroconvulsive treatment or a psychosurgical procedure~~
62 ~~procedures,~~ a physician must first obtain informed ~~prior~~ written
63 ~~consent from~~ shall be obtained after disclosure to the patient,
64 if he or she is competent, or from ~~to~~ the patient's guardian, if
65 the patient ~~he or she is a minor or incompetent.~~ The informed
66 written consent must include disclosure, of the purpose of the
67 procedure, the common side effects thereof, alternative
68 treatment modalities, and the approximate number of such
69 procedures considered necessary and that any consent given may
70 be revoked by the patient or the patient's guardian before ~~prior~~
71 ~~to~~ or between treatments.

72 (5)(2) Before a physician may perform electroconvulsive
73 treatment or a psychosurgical procedure ~~convulsive therapy or~~
74 ~~psychosurgery may be administered,~~ another physician not
75 directly involved with the patient must review the patient's
76 treatment record ~~shall be reviewed~~ and agree that the proposed
77 electroconvulsive treatment or psychosurgical procedure is
78 appropriate for convulsive therapy or psychosurgery ~~agreed to by~~
79 ~~one other physician not directly involved with the patient.~~ Such
80 agreement must ~~shall~~ be documented in the patient's treatment
81 record and ~~shall~~ be signed by both physicians.

82 Section 2. This act shall take effect July 1, 2024.