

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 persons 16 years or  
9 younger; providing an exception; making technical  
10 changes; providing an effective date.

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

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

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

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

30 WHEREAS, on January 20, 2000, the National Council on  
 31 Disability (NCD), an independent federal agency, first made  
 32 recommendations to the President and Congress which included the  
 33 following: "Mental health treatment should be about healing, not  
 34 punishment. Accordingly, the use of aversive treatments,  
 35 including physical and chemical restraints, seclusion, and  
 36 similar techniques that restrict freedom of movement, should be  
 37 banned. Also, public policy should move toward the elimination  
 38 of electroconvulsive therapy and psychosurgery as unproven and  
 39 inherently inhumane procedures. Effective humane alternatives to  
 40 these techniques exist now and should be promoted," and  
 41 continues to stand by this recommendation 23 years later, NOW,  
 42 THEREFORE,

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

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

48 458.325 Electroconvulsive treatment and psychosurgical  
 49 procedures.—

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

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

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

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

58 (3) Electroconvulsive treatment and psychosurgical  
 59 procedures may not be performed on a person younger than 16  
 60 years of age unless:

61 (a) The physician certifies in writing that, in reasonable  
 62 medical judgement, there is a medical necessity for  
 63 electroconvulsive treatment or a psychosurgical procedure.

64 (b) Two psychiatrists, as defined in s. 394.455, who do  
 65 not work within the same medical practice, agree in writing  
 66 that, in reasonable medical judgement, the proposed  
 67 electroconvulsive treatment or psychosurgical procedure is  
 68 appropriate for the patient. Such agreement must be signed by  
 69 both psychiatrists and documented in the patient's treatment  
 70 record.

71 (4) Before performing ~~In each case of utilization of~~  
 72 electroconvulsive treatment or a psychosurgical procedure  
 73 ~~procedures,~~ a physician must first obtain informed ~~prior~~ written  
 74 consent ~~from shall be obtained after disclosure to~~ the patient,  
 75 if he or she is competent, or from ~~to~~ the patient's guardian, if

76 | the patient ~~he or she~~ ~~is a minor or incompetent~~. The informed  
 77 | written consent must include disclosure, of the purpose of the  
 78 | procedure, the common side effects thereof, alternative  
 79 | treatment modalities, and the approximate number of such  
 80 | procedures considered necessary and that any consent given may  
 81 | be revoked by the patient or the patient's guardian before ~~prior~~  
 82 | ~~to~~ or between treatments.

83 | (5)-(2) Before a physician may perform electroconvulsive  
 84 | treatment or a psychosurgical procedure ~~convulsive therapy or~~  
 85 | ~~psychosurgery may be administered~~, another physician not  
 86 | directly involved with the patient must review the patient's  
 87 | treatment record ~~shall be reviewed~~ and agree that the proposed  
 88 | electroconvulsive treatment or psychosurgical procedure is  
 89 | appropriate for ~~convulsive therapy or psychosurgery agreed to by~~  
 90 | ~~one other physician not directly involved with~~ the patient. Such  
 91 | agreement must ~~shall~~ be documented in the patient's treatment  
 92 | record and ~~shall~~ be signed by both physicians.

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