By the Appropriations Committee on Health and Human Services; the Committee on Health Policy; and Senator Massullo

603-02960-26 20261092c2

A bill to be entitled

An act relating to podiatric medicine; amending s. 461.007, F.S.; requiring certain podiatric physicians, instead of all podiatric physicians, to complete specified continuing education; creating s. 461.011, F.S.; providing legislative findings and intent; defining terms; authorizing podiatric physicians to perform procedures using cellular or tissue-based products not approved by the United States Food and Drug Administration under certain circumstances; specifying requirements for the cellular or tissue-based products that may be used by such podiatric physicians; requiring such podiatric physicians to include a specified notice in any form of advertisement; specifying requirements for such notice; requiring podiatric physicians to obtain a signed consent form from the patient or his or her representative before performing procedures using cellular or tissue-based products; specifying requirements for the consent form; providing applicability; providing for disciplinary action; providing criminal penalties; authorizing the Board of Podiatric Medicine to adopt rules; providing an effective date.

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

Section 1. Subsection (3) of section 461.007, Florida Statutes, is amended to read:

461.007 Renewal of license.—

(3) The board may by rule prescribe continuing education, not to exceed 40 hours biennially, as a condition for renewal of a license, with a minimum of 2 hours of continuing education related to the safe and effective prescribing of controlled substances for licensees who are registered with the United States Drug Enforcement Administration and authorized to prescribe controlled substance pursuant to 21 U.S.C. s. 822. The criteria for such programs or courses shall be approved by the board.

Section 2. Section 461.011, Florida Statutes, is created to read:

461.011 Cellular and tissue-based products.—

(1) The Legislature recognizes the significant potential of cellular and tissue-based products in advancing medical treatments and improving patient outcomes and further recognizes the need to ensure that such treatments are provided using cellular or tissue-based products obtained in an ethical manner that does not involve cells derived from aborted fetuses. It is the intent of the Legislature to foster medical innovation while upholding ethical standards that respect the sanctity of life. By encouraging the use of cellular or tissue-based products, the state will advance regenerative medicine in a manner consistent with the values of the state.

(2) As used in this section, the term:

(a) "Cellular or tissue-based products" means products containing or consisting of human cells or tissues which are intended for implantation, transplantation, infusion, or transfer into a human recipient. The term does not include:

1. Vascularized human organs for transplantation;

2. Whole blood or blood components or blood derivative products;

3. Secreted or extracted human products, such as milk, collagen, and cell factors, other than semen;

4. Minimally manipulated bone marrow for homologous use and not combined with another article other than water, crystalloids, or a sterilizing, preserving, or storage agent, if the addition of the agent does not raise new clinical safety concerns with respect to the bone marrow;

5. Ancillary products used in the manufacture of human cells, tissues, or cellular or tissue-based products;

6. Cells, tissues, and organs derived from animals;

7. In vitro diagnostic products;

8. Blood vessels recovered with an organ which are intended for use in organ transplantation and labeled "For use in organ transplantation only"; or

9. Harvesting and reimplantation of autologous tissue.

(b) "Minimally manipulated" means:

1. For structural tissue, processing that does not alter the original relevant characteristics of the tissue relating to the tissue's utility for reconstruction, repair, or replacement.

2. For cells or nonstructural tissues, processing that does not alter the relevant biological characteristics of cells or tissues.

(c) "Procedure using cellular or tissue-based products" means a treatment involving the use of human cells, tissues, or cellular or tissue-based products which complies with the regulatory requirements provided in this section. The term does

not include treatment or research using human cells or tissues derived from a fetus or an embryo after an abortion.

(3)(a) A podiatric physician may perform a procedure using cellular or tissue-based products that are not approved by the United States Food and Drug Administration if such products are used for treatment or procedures within the scope of practice for such podiatric physician and the treatment or procedures are related to connective tissue, ligament, and tendon repair; wound care; or pain management.

(b) To ensure that the retrieval, manufacture, storage, and use of any cellular or tissue-based products pursuant to this section meet the highest standards, any cellular or tissue-based products used by a podiatric physician for a procedure provided under this section must meet all of the following conditions:

1. Be retrieved, manufactured, and stored in a facility that is registered and regulated by the United States Food and Drug Administration.

2. Be retrieved, manufactured, and stored in a facility that is certified or accredited by one of the following entities:

a. The National Marrow Donor Program.

b. The World Marrow Donor Association.

c. The Association for the Advancement of Blood and Biotherapies.

d. The American Association of Tissue Banks.

3. Contain viable or live cells upon post-thaw analysis and be included in a post-thaw viability analysis report for the product lot, which must be sent to the podiatric physician before use with the podiatric physician’s patient.

(4)(a) A podiatric physician who performs a procedure using cellular or tissue-based products pursuant to this section shall include the following in any form of advertisement:

THIS NOTICE MUST BE PROVIDED TO YOU UNDER FLORIDA LAW. This podiatric physician performs procedures using cellular or tissue-based products that have not yet been approved by the United States Food and Drug Administration. You are encouraged to consult with your primary care provider before undergoing any procedure using these products.

(b) The notice required under paragraph (a) must be clearly legible and in a type size no smaller than the largest type size used in the advertisement.

(5)(a) A podiatric physician who performs a procedure using cellular or tissue-based products pursuant to this section shall obtain a signed consent form from the patient before performing the procedure.

(b) The consent form must be signed by the patient or, if the patient is not legally competent, the patient's representative, and must state all of the following in language the patient or his or her representative may reasonably be expected to understand:

1. The nature and character of the proposed treatment.

2. That the proposed procedure uses cellular or tissue-based products that have not yet been approved by the United States Food and Drug Administration.

3. The anticipated results of the proposed treatment.

4. The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment.

5. That the patient is encouraged to consult with his or her primary care provider before undergoing the procedure.

(6) This section does not apply to the following:

(a) A podiatric physician who has obtained approval for an investigational new drug or device from the United States Food and Drug Administration for the use of human cells, tissues, or cellular or tissue-based products; or

(b) A podiatric physician who performs procedures using cellular or tissue-based products under an employment or other contract on behalf of an institution certified or accredited by any of the following:

1. The Foundation for the Accreditation of Cellular Therapy.

2. The Blood and Marrow Transplant Clinical Trials Network.

3. The Association for the Advancement of Blood and Biotherapies.

(7) A violation of this section may subject the podiatric physician to disciplinary action by the board.

(8) A podiatric physician who willfully performs, or actively participates in, the following commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to disciplinary action under this chapter and s. 456.072:

(a) Treatment or research using human cells or tissues derived from a fetus or an embryo after an abortion; or

(b) The sale, manufacture, or distribution of computer products created using human cells, tissues, or cellular or tissue-based products.

(9) The board may adopt rules necessary to implement this section.

Section 3. This act shall take effect upon becoming a law.