

Committee Substitute for  
Committee Substitute for Senate Bill No. 2156

An act relating to health care; amending s. 456.031, F.S.; allowing licensees under ch. 466, F.S., to complete a course designated by the Board of Dentistry, rather than a course in end-of-life care and palliative care, as an alternative to completing a domestic-abuse course; amending s. 456.033, F.S.; allowing licensees under ch. 466, F.S., to complete a course designated by the Board of Dentistry, rather than a course in end-of-life care and palliative care, as an alternative to completing certain instruction on human immunodeficiency virus and acquired immune deficiency syndrome; amending s. 765.1103, F.S.; directing certain health care providers and practitioners to comply with a request for pain management or palliative care from a patient under certain circumstances; amending s. 765.101, F.S.; redefining the term "end-stage condition"; amending s. 765.102, F.S.; prescribing the content and suitability of palliative care; amending s. 765.205, F.S.; prescribing the standards of decision-making which are to be used in certain circumstances by health surrogates and by proxy decisionmakers; amending s. 765.401, F.S.; prescribing the standards of decisionmaking which are to be used in certain circumstances by proxies; providing an effective date.

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

Section 1. Section 456.031, Florida Statutes, is amended to read:

456.031 Requirement for instruction on domestic violence.—

(1)(a) The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, part I of chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 1-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, as part of biennial relicensure or recertification. The course shall consist of information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

(b) Each such licensee or certificateholder shall submit confirmation of having completed such course, on a form provided by the board, when submitting fees for each biennial renewal.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that

requires a licensee to complete an educational course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(d) Any person holding two or more licenses subject to the provisions of this subsection shall be permitted to show proof of having taken one board-approved course on domestic violence, for purposes of relicensure or recertification for additional licenses.

(e) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 456.072(1)(k). In addition to discipline by the board, the licensee shall be required to complete such course.

(2) The board shall also require, as a condition of granting a license under any chapter specified in paragraph (1)(a), that each applicant for initial licensure under the appropriate chapter complete an educational course acceptable to the board on domestic violence which is substantially equivalent to the course required in subsection (1). An applicant who has not taken such course at the time of licensure shall, upon submission of an affidavit showing good cause, be allowed 6 months to complete such requirement.

(3) In lieu of completing a course as required in subsection (1), a licensee or certificateholder may complete a course in end-of-life care and palliative health care, if the licensee or certificateholder has completed an approved domestic violence course in the immediately preceding biennium. In lieu of completing a course as required in subsection (1), a person licensed under chapter 466 may complete a course designated by the Board of Dentistry, if the licensee has completed an approved domestic-violence course in the immediately preceding biennium.

(4) Each board may adopt rules to carry out the provisions of this section.

(5) Each board shall report to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriate substantive committees of the Legislature by March 1 of each year as to the implementation of and compliance with the requirements of this section.

Section 2. Subsection (9) of section 456.033, Florida Statutes, is amended to read:

456.033 Requirement for instruction for certain licensees on human immunodeficiency virus and acquired immune deficiency syndrome.—

(9) In lieu of completing a course as required in subsection (1), the licensee may complete a course in end-of-life care and palliative health care, so long as the licensee completed an approved AIDS/HIV course in the immediately preceding biennium. In lieu of completing a course as required in subsection (1), a person licensed under chapter 466 may complete a course designated by the Board of Dentistry, as long as the licensee has completed an approved AIDS/HIV course in the immediately preceding biennium.

Section 3. Subsection (4) of section 765.101, Florida Statutes, is amended to read:

765.101 Definitions.—As used in this chapter:

(4) “End-stage condition” means an irreversible a condition that is caused by injury, disease, or illness which has resulted in progressively severe and permanent deterioration, ~~indicated by incapacity and complete physical dependency,~~ and for which, to a reasonable degree of medical probability certainty, treatment of the irreversible condition would be medically ineffective.

Section 4. Present subsection (5) of section 765.102, Florida Statutes, is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

765.102 Legislative findings and intent.—

(5) Palliative care is the comprehensive management of the physical, psychological, social, spiritual, and existential needs of patients. It is especially suited to the care of people who have incurable, progressive illness. Palliative care must include:

- (a) An opportunity to discuss and plan for end-of-life care.
- (b) Assurance that physical and mental suffering will be carefully attended to.
- (c) Assurance that preferences for withholding and withdrawing life-sustaining interventions will be honored.
- (d) Assurance that the personal goals of the dying person will be addressed.
- (e) Assurance that the dignity of the dying person will be a priority.
- (f) Assurance that healthcare providers will not abandon the dying person.
- (g) Assurance that the burden to family and others will be addressed.
- (h) Assurance that advance directives for care will be respected regardless of the location of care.
- (i) Assurance that organizational mechanisms are in place to evaluate the availability and quality of end-of-life, palative, and hospice care services, including the evaluation of administrative and regulatory barriers.
- (j) Assurance that necessary healthcare services will be provided and that relevant reimbursement policies are available.
- (k) Assurance that the goals expressed in paragraphs (a)-(j) will be accomplished in a culturally appropriate manner.

Section 5. Subsection (2) of section 765.1103, Florida Statutes, is amended to read:

765.1103 Pain management and palliative care.—

~~(2) Health care providers and practitioners regulated under chapter 458, chapter 459, or chapter 464 must, as appropriate, comply with a request for pain management or palliative care from a patient under their care or, for an incapacitated patient under their care, from a surrogate, proxy, guardian, or other representative permitted to make health care decisions for the incapacitated patient. Facilities regulated under chapter 400 or chapter 395 must comply with the pain management or palliative care measures ordered by the patient's physician. When the patient is receiving care as an admitted patient of a facility or a provider or is a subscriber of a health care facility, health care provider, or health care practitioner regulated under chapter 395, chapter 400, chapter 458, chapter 459, chapter 464, or chapter 641, such facility, provider, or practitioner must, when appropriate, comply with a request for pain management or palliative care from a capacitated patient or an incapacitated patient's health care surrogate or proxy, court-appointed guardian as provided in chapter 744, or attorney in fact as provided in chapter 709. The court-appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient.~~

Section 6. Subsection (1) of section 765.205, Florida Statutes, is amended to read:

765.205 Responsibility of the surrogate.—

(1) The surrogate, in accordance with the principal's instructions, unless such authority has been expressly limited by the principal, shall:

(a) Have authority to act for the principal and to make all health care decisions for the principal during the principal's incapacity.

(b) Consult expeditiously with appropriate health care providers to provide informed consent, and make only health care decisions for the principal which he or she believes the principal would have made under the circumstances if the principal were capable of making such decisions. If there is no indication of what the principal would have chosen, the surrogate may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.

(c) Provide written consent using an appropriate form whenever consent is required, including a physician's order not to resuscitate.

(d) Be provided access to the appropriate medical records of the principal.

(e) Apply for public benefits, such as Medicare and Medicaid, for the principal and have access to information regarding the principal's income and assets and banking and financial records to the extent required to make application. A health care provider or facility may not, however, make such application a condition of continued care if the principal, if capable, would have refused to apply.

Section 7. Subsections (2) and (3) of section 765.401, Florida Statutes, are amended to read:

765.401 The proxy.—

(2) Any health care decision made under this part must be based on the proxy's informed consent and on the decision the proxy reasonably believes the patient would have made under the circumstances. If there is no indication of what the patient would have chosen, the proxy may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.

(3) Before exercising the incapacitated patient's rights to select or decline health care, the proxy must comply with the provisions of ss. 765.205 and 765.305, except that a proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the patient would have chosen had the patient been competent or, if there is no indication of what the patient would have chosen, that the decision is in the patient's best interest.

Section 8. This act shall take effect July 1, 2001.

Approved by the Governor June 15, 2001.

Filed in Office Secretary of State June 15, 2001.