

CHAPTER 2017-134

Committee Substitute for Committee Substitute for House Bill No. 543

An act relating to the regulation of health care practitioners; amending s. 458.348, F.S.; removing a provision that requires a joint committee to determine standards for the content of advanced registered nurse practitioner protocols; conforming a cross-reference; amending s. 464.012, F.S.; removing an obsolete qualification that is no longer sufficient to satisfy certain nursing certification requirements; requiring that an established protocol be maintained at certain locations; requiring an advanced registered nurse practitioner to enter into a supervisory protocol with a physician under certain circumstances; removing the requirement that the Board of Nursing review protocols and submit uncompliant protocols to the Department of Health; amending s. 464.019, F.S.; authorizing the board to conduct certain onsite evaluations; removing a limiting criterion from the requirement to measure graduate passage rates; removing a requirement that certain nursing program graduates complete a specific preparatory course; clarifying circumstances when programs in probationary status must be terminated; requiring that accredited and nonaccredited nursing education programs disclose probationary status; requiring notification of probationary status to include certain information; prohibiting a terminated or closed program from seeking program approval for a certain time; providing that a name change or the creation of a new educational institution does not reduce the waiting period for reapplication; authorizing the board to adopt certain rules; removing requirements that the Office of Program Policy Analysis and Government Accountability perform certain tasks; requiring the Florida Center for Nursing to evaluate program-specific data for each approved nursing program and make an annual assessment of compliance by nursing programs with certain accreditation requirements; requiring the center to include its assessment in a report to the Governor and the Legislature; requiring the termination of a program under certain circumstances; creating s. 465.1893, F.S.; authorizing a pharmacist to administer specified medication by injection under certain circumstances; requiring a pharmacist who administers such injections to complete a specified course; providing requirements for the course; amending s. 468.80, F.S.; requiring completion of a specified course in orthotics and prosthetics for licensure and licensure renewal; providing course requirements; amending s. 486.102, F.S.; providing requirements for certain physical therapist assistant licensure applicants; providing effective dates.

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

Section 1. Present subsections (3) through (6) of section 458.348, Florida Statutes, are redesignated as subsections (4) through (7), respectively,

present subsection (2) and paragraph (e) of present subsection (4) of that section are amended, to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

~~(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—~~
~~The joint committee shall determine minimum standards for the content of established protocols pursuant to which an advanced registered nurse practitioner may perform medical acts or acts set forth in s. 464.012(3) and (4) and shall determine minimum standards for supervision of such acts by the physician, unless the joint committee determines that any act set forth in s. 464.012(3) or (4) is not a medical act. Such standards shall be based on risk to the patient and acceptable standards of medical care and shall take into account the special problems of medically underserved areas. The standards developed by the joint committee shall be adopted as rules by the Board of Nursing and the Board of Medicine for purposes of carrying out their responsibilities pursuant to part I of chapter 464 and this chapter, respectively, but neither board shall have disciplinary powers over the licensees of the other board.~~

~~(3)(4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—~~A physician who supervises an advanced registered nurse practitioner or physician assistant at a medical office other than the physician's primary practice location, where the advanced registered nurse practitioner or physician assistant is not under the onsite supervision of a supervising physician, must comply with the standards set forth in this subsection. For the purpose of this subsection, a physician's "primary practice location" means the address reflected on the physician's profile published pursuant to s. 456.041.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine, a college of nursing, an accredited graduate medical program, or a nursing education program; not-for-profit, family-planning clinics that are not licensed pursuant to chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part I of chapter 429, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and a licensed nursing home or assisted living facility; anesthesia services provided in accordance with law; health care services provided in a designated rural health clinic; health care services provided to persons enrolled in a program designed to maintain elderly persons and persons with disabilities in a home or community-based setting; university primary care student health centers; school health clinics; or health care services provided in federal, state, or local government facilities. Subsection ~~(2)~~ (3) and this subsection do not apply to offices at which the exclusive service being performed is laser hair removal by an advanced registered nurse practitioner or physician assistant.

Section 2. Subsections (1) and (3) of section 464.012, Florida Statutes, are amended to read:

464.012 Certification of advanced registered nurse practitioners; fees; controlled substance prescribing.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the following requirements as determined by the board:

~~(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.~~

~~(a)(b)~~ Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist, psychiatric nurse, or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists, psychiatric nurses, and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

~~(b)(e)~~ Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol which must be maintained on site at the location or locations at which an advanced registered nurse practitioner practices. In the case of multiple supervising physicians in the same group, an advanced registered nurse practitioner must enter into a supervisory protocol with at least one physician within the physician group practice that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Prescribe, dispense, administer, or order any drug; however, an advanced registered nurse practitioner may prescribe or dispense a controlled substance as defined in s. 893.03 only if the advanced registered nurse practitioner has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational therapy.

(e) Order any medication for administration to a patient in a facility licensed under chapter 395 or part II of chapter 400, notwithstanding any provisions in chapter 465 or chapter 893.

Section 3. Effective December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first, subsection (1) of section 464.012, Florida Statutes, as amended by section 8 of chapter 2016-139, section 12 of chapter 2016-224, and section 7 of chapter 2016-231, Laws of Florida, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees; controlled substance prescribing.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing or holds an active multistate license to practice professional nursing pursuant to s. 464.0095 and that he or she meets one or more of the following requirements as determined by the board:

~~(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.~~

(a)(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist, psychiatric nurse, or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists, psychiatric nurses, and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(b)(e) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or

after October 1, 2001, graduation from a master’s degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

Section 4. Paragraph (b) of subsection (2), subsection (5), subsection (8), paragraph (a) of subsection (9), and subsection (10) of section 464.019, Florida Statutes, are amended, paragraph (d) is added to subsection (7) of that section, and paragraph (e) is added to subsection (11) of that section, to read:

464.019 Approval of nursing education programs.—

(2) PROGRAM APPROVAL.—

(b) Following the department’s receipt of a complete program application, the board may conduct an onsite evaluation if necessary to document the applicant’s compliance with subsection (1). Within 90 days after the department’s receipt of a complete program application, the board shall:

1. Approve the application if it documents compliance with subsection (1); or

2. Provide the educational institution with a notice of intent to deny the application if it does not document compliance with subsection (1). The notice must specify written reasons for the board’s denial of the application. The board may not deny a program application because of an educational institution’s failure to correct an error or omission that the department failed to provide notice of to the institution within the 30-day notice period under paragraph (a). The educational institution may request a hearing on the notice of intent to deny the program application pursuant to chapter 120.

(5) ACCOUNTABILITY.—

(a)1. An approved program must achieve a graduate passage rate for first-time test takers ~~which who take the licensure examination within 6 months after graduation from the program~~ that is not more than 10 percentage points lower than the average passage rate during the same calendar year for graduates of comparable degree programs who are United States educated, first-time test takers on the National Council of State Boards of Nursing Licensure Examination, as calculated by the contract testing service of the National Council of State Boards of Nursing. ~~An approved program shall require a graduate from the program who does not take the licensure examination within 6 months after graduation to enroll in and successfully complete a licensure examination preparatory course pursuant to s. 464.008.~~ For purposes of this subparagraph, an approved program is comparable to all degree programs of the same program type from among the following program types:

a. Professional nursing education programs that terminate in a bachelor’s degree.

- b. Professional nursing education programs that terminate in an associate degree.
- c. Professional nursing education programs that terminate in a diploma.
- d. Practical nursing education programs.

2. Beginning with graduate passage rates for calendar year 2010, if an approved program's graduate passage rates do not equal or exceed the required passage rates for 2 consecutive calendar years, the board shall place the program on probationary status pursuant to chapter 120 and the program director shall appear before the board to present a plan for remediation, which shall include specific benchmarks to identify progress toward a graduate passage rate goal. The program must remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any 1 calendar year. The board shall deny a program application for a new prelicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.

3. Upon the program's achievement of a graduate passage rate that equals or exceeds the required passage rate, the board, at its next regularly scheduled meeting following release of the program's graduate passage rate by the National Council of State Boards of Nursing, shall remove the program's probationary status. If the program, during the 2 calendar years following its placement on probationary status, does not achieve the required passage rate for any 1 calendar year, the board shall terminate the program pursuant to chapter 120. ~~However, the board may extend the program's probationary status for 1 additional year, provided if the program has demonstrated demonstrates~~ adequate progress toward the graduate passage rate goal by meeting a majority of the benchmarks established in the remediation plan. If the program is not granted the 1-year extension or fails to achieve the required passage rate by the end of such extension, the board shall terminate the program pursuant to chapter 120.

(b) If an approved program fails to submit the annual report required in subsection (3), the board shall notify the program director and president or chief executive officer of the educational institution in writing within 15 days after the due date of the annual report. The program director shall appear before the board at the board's next regularly scheduled meeting to explain the reason for the delay. The board shall terminate the program pursuant to chapter 120 if the program director fails to appear before the board, as required under this paragraph, or if the program ~~it~~ does not submit the annual report within 6 months after the due date.

(c) A nursing education ~~An approved program, whether accredited or nonaccredited, which has been placed~~ on probationary status shall disclose its probationary status in writing to the program's students and applicants. The notification must include an explanation of the implications of the program's probationary status on the students or applicants.

(d) If students from a program that is terminated pursuant to this subsection transfer to an approved or an accredited program under the direction of the Commission for Independent Education, the board shall recalculate the passage rates of the programs receiving the transferring students, excluding the test scores of those students transferring more than 12 credits.

(7) PROGRAM CLOSURE.—

(d) A program that is terminated or closed under this section may not seek program approval under its original name or a new program name for a minimum of 3 years after the date of termination or closing. An institutional name change or the creation of a new educational institution with the same ownership does not reduce the waiting period for reapplication.

(8) RULEMAKING.—The board does not have rulemaking authority to administer this section, except that the board shall adopt rules that prescribe the format for submitting program applications under subsection (1) and annual reports under subsection (3), and to administer the documentation of the accreditation of nursing education programs under subsection (11). The board may adopt rules relating to the nursing curriculum, including rules relating to the uses and limitations of simulation technology. The board may not impose any condition or requirement on an educational institution submitting a program application, an approved program, or an accredited program, except as expressly provided in this section.

(9) APPLICABILITY TO ACCREDITED PROGRAMS.—

(a) Subsections (1)-(3), paragraph (4)(b), and paragraph (5)(b) subsection (5) do not apply to an accredited program.

(10) IMPLEMENTATION STUDY.—~~The Florida Center for Nursing and the education policy area of the Office of Program Policy Analysis and Government Accountability shall study the administration of this section and submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually by January 30, through January 30, 2020. The annual reports shall address the previous academic year; provide data on the measures specified in paragraphs (a) and (b), as such data becomes available; and include an evaluation of such data for purposes of determining whether this section is increasing the availability of nursing education programs and the production of quality nurses. The department and each approved program or accredited program shall comply with requests for data from the Florida Center for Nursing and the education policy area of the Office of Program Policy Analysis and Government Accountability.~~

~~(a) The Florida Center for Nursing education policy area of the Office of Program Policy Analysis and Government Accountability shall evaluate~~

program-specific data for each approved program and accredited program conducted in the state, including, but not limited to:

1. The number of programs and student slots available.
2. The number of student applications submitted, the number of qualified applicants, and the number of students accepted.
3. The number of program graduates.
4. Program retention rates of students tracked from program entry to graduation.
5. Graduate passage rates on the National Council of State Boards of Nursing Licensing Examination.
6. The number of graduates who become employed as practical or professional nurses in the state.

(b) The Florida Center for Nursing shall evaluate the board's implementation of the:

1. Program application approval process, including, but not limited to, the number of program applications submitted under subsection (1); the number of program applications approved and denied by the board under subsection (2); the number of denials of program applications reviewed under chapter 120; and a description of the outcomes of those reviews.
2. Accountability processes, including, but not limited to, the number of programs on probationary status, the number of approved programs for which the program director is required to appear before the board under subsection (5), the number of approved programs terminated by the board, the number of terminations reviewed under chapter 120, and a description of the outcomes of those reviews.

(c) The Florida Center for Nursing shall complete an annual assessment of compliance by programs with the accreditation requirements of subsection (11), include in the assessment a determination of the accreditation process status for each program, and submit the assessment as part of the reports required ~~For any state fiscal year in which The Florida Center for Nursing does not receive legislative appropriations, the education policy area of the Office of Program Policy Analysis and Government Accountability shall perform the duties assigned by this subsection to the Florida Center for Nursing.~~

(11) ACCREDITATION REQUIRED.—

A nursing education program that fails to meet the accreditation requirements shall be terminated and is ineligible for reapproval under its original name or a new program name for a minimum of 3 years after the date of termination. An institutional name change or the creation of a new

educational institution with the same ownership does not reduce the waiting period for reapplication.

Section 5. Section 465.1893, Florida Statutes, is created to read:

465.1893 Administration of antipsychotic medication by injection.—

(1)(a) A pharmacist, at the direction of a physician licensed under chapter 458 or chapter 459, may administer a long-acting antipsychotic medication approved by the United States Food and Drug Administration by injection to a patient if the pharmacist:

- 1. Is authorized by and acting within the framework of an established protocol with the prescribing physician.
- 2. Practices at a facility that accommodates privacy for nondeltoid injections and conforms with state rules and regulations regarding the appropriate and safe disposal of medication and medical waste.
- 3. Has completed the course required under subsection (2).

(b) A separate prescription from a physician is required for each injection administered by a pharmacist under this subsection.

(2)(a) A pharmacist seeking to administer a long-acting antipsychotic medication by injection must complete an 8-hour continuing education course offered by:

- 1. A statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician’s Recognition Award (AMA PRA) Category 1 Credit or the American Osteopathic Association (AOA) Category 1-A continuing medical education (CME) credit; and
- 2. A statewide association of pharmacists.

(b) The course may be offered in a distance learning format and must be included in the 30 hours of continuing professional pharmaceutical education required under s. 465.009(1). The course shall have a curriculum of instruction that concerns the safe and effective administration of behavioral health and antipsychotic medications by injection, including, but not limited to, potential allergic reactions to such medications.

Section 6. Subsection (5) of section 468.80, Florida Statutes, is amended to read:

468.80 Definitions.—As used in this part, the term:

(5) “Mandatory courses” means continuing education courses that the board has defined by rule and required for license issuance or renewal. Notwithstanding s. 456.013(7), the board shall require completion of a 1-hour course relating to the prevention of medical errors as a part of the

licensure issuance and biennial renewal process. The 1-hour medical errors course counts toward the total number of continuing education hours required. The course must be approved by the board, be developed specifically for the field of orthotics and prosthetics, and include a study of root-cause analysis, error reduction and prevention, patient safety, and medical records.

Section 7. Paragraphs (b) and (c) of subsection (3) of section 486.102, Florida Statutes, are amended, and paragraph (d) is added to that subsection, to read:

486.102 Physical therapist assistant; licensing requirements.—To be eligible for licensing by the board as a physical therapist assistant, an applicant must:

(3)

(b) Have been graduated from a school giving a course for physical therapist assistants in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapist assistants in this country, as recognized by the appropriate agency as identified by the board, and passed to the satisfaction of the board an examination to determine her or his fitness for practice as a physical therapist assistant as hereinafter provided; ~~or~~

(c) Be entitled to licensure without examination as provided in s. 486.107; ~~or~~

(d) Have been enrolled between July 1, 2014, and July 1, 2016, in a physical therapist assistant school in this state which was accredited at the time of enrollment; and

1. Have been graduated or be eligible to graduate from such school no later than July 1, 2018; and

2. Have passed to the satisfaction of the board an examination to determine his or her fitness for practice as a physical therapist assistant as provided in s. 486.104.

Section 8. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 23, 2017.

Filed in Office Secretary of State June 23, 2017.