

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2072

SPONSOR: Senators Diaz de la Portilla and Jones

SUBJECT: Specialty Nursing

DATE: March 12, 2004

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Wilson	HC	Unfavorable
2.			CJ	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

The bill defines “Clinical Nurse Specialist” as any person licensed in Florida to practice professional nursing and certified in clinical nurse specialist practice. Procedures are specified for a nurse to be certified as a clinical nurse specialist. Any nurse may apply to the Department of Health (DOH) and submit proof that he or she holds a current license to practice professional nursing, a master’s degree in a clinical nursing specialty, and current certification in a specialty area as a clinical nurse specialist from a nationally recognized certifying body as determined by the Board of Nursing. The bill revises the restrictions for the use of protected nursing titles and abbreviations to recognize the “Clinical Nurse Specialist” certification.

The bill creates a registration requirement for advanced registered nurse practitioners to prescribe medications. An advanced registered nurse practitioner would be allowed to prescribe noncontrolled substances after meeting specified qualifications and, if the practitioner meets additional requirements, he or she may prescribe controlled substances. The bill grants rulemaking authority to the Board of Nursing to administer the requirements of the registration scheme for advanced registered nurse practitioners to prescribe medications.

The bill amends the definition of “practitioner” in the Florida Comprehensive Drug Abuse Prevention and Control Act to expand the term to include an advanced registered nurse practitioner who is registered to prescribe controlled substances and who possesses a valid mid-level practitioner registration number issued by the United States Drug Enforcement Administration. The effect of this change would be that advanced registered nurse practitioners could prescribe controlled substances under the specified conditions.

This bill amends sections 464.003, 464.015, 464.016, 893.02, 458.348, and 464.012, Florida Statutes.

This bill creates ss. 464.0115 and 464.0125, F.S.

This bill reenacts s. 921.0022(3)(g), F.S.

II. Present Situation:

Nursing

Nursing is regulated under chapter 464, F.S. The chapter provides definitions and requirements for nursing licensure of licensed practical nurses, registered nurses, and advanced registered nurse practitioners. The chapter specifies violations and limits the use of specified titles and abbreviations to only duly licensed or certified nurses who have met certain requirements.

Clinical nurse specialists are registered nurses who have graduate preparation in nursing as a clinical nurse specialist. Clinical nurse specialists are expert clinicians in a specialized area of nursing practice. The specialty may be identified in terms of: a population (pediatrics, geriatrics, women's health); a setting (critical care, emergency room); a disease or medical subspecialty (diabetes, oncology); a type of care (psychiatric, rehabilitation); or a type of problem (e.g. pain, wounds, stress). In addition to providing direct patient care, clinical nurse specialists influence care outcomes by providing expert consultation for nursing staffs and by implementing improvements in health care delivery systems. Clinical nurse specialist practice integrates nursing practice, which focuses on assisting patients in the prevention or resolution of illness, with medical diagnosis and treatment of disease, injury and disability. Although the nursing designation, "Clinical Nurse Specialist" is recognized and licensed by over 20 states, the State of Florida does not recognize the designation for nursing licensure or certification.¹

Advanced registered nurse practitioners may perform all duties of a registered nurse and advanced level nursing in accordance with established protocols, including managing selected medical problems, monitoring and altering drug therapies, initiating appropriate therapies for certain conditions, performing physical examinations, ordering and evaluating diagnostic tests, ordering physical and occupational therapy, and initiating and monitoring therapies for certain uncomplicated acute illnesses.

Chapter 464, F.S., requires the Board of Nursing to adopt rules authorizing advanced registered nurse practitioners to perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee. Advanced registered nurse practitioners may perform medical acts under the general supervision of a medical physician, osteopathic physician, or dentist within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. The Board of Nursing and the Board of Medicine have filed identical administrative rules setting forth standards for the protocols² which establish obligations on medical physicians, osteopathic physicians, and dentists who enter into protocol relationships with advanced registered nurse practitioners. The Board of Osteopathic Medicine and the Board of Dentistry which have regulatory jurisdiction over osteopathic physicians and dentists, respectively, are not required to adopt administrative

¹ National Council of State Boards of Nursing, "2002 - Profiles of Member Boards."

² See Rules 64B-4.010 and 64B-35.002, Florida Administrative Code.

rules regarding the standards for advanced registered nurse practitioner protocols. Although advanced registered nurse practitioners may prescribe medications in accordance with a protocol, they cannot prescribe controlled substances.

Controlled Substances

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act. The chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances. Substances in Schedule I have a high potential for abuse and have no currently accepted medical use in the United States. Schedule II drugs have a high potential for abuse and a severely restricted medical use. Cocaine and morphine are examples of Schedule II drugs. Schedule III controlled substances have less potential for abuse than Schedule I or Schedule II substances and have some accepted medical use. Substances listed in Schedule III include anabolic steroids, codeine, and derivatives of barbituric acid. Schedule IV and Schedule V substances have a low potential for abuse, compared to substances in Schedules I, II, and III, and currently have accepted medical use. Substances in Schedule IV include phenobarbital, librium, and valium. Substances in Schedule V include certain stimulants and narcotic compounds.

Section 893.02, F.S., defines practitioner to mean a licensed medical physician, a licensed dentist, a licensed veterinarian, a licensed osteopathic physician, a licensed naturopathic physician, or a licensed podiatrist, if such practitioner holds a valid federal controlled substance registry number. The prescribing of controlled substances is a privilege that is separate from the regulation of the practice of the prescribing practitioner.

Section 893.05, F.S., allows a practitioner, in good faith and in the course of his or her professional practice only to prescribe, administer, dispense, mix, or otherwise prepare a controlled substance, or the practitioner may direct the administration of a controlled substance by a licensed nurse or an intern practitioner under his or her direction and supervision.

Section 893.04, F.S., authorizes a pharmacist, in good faith and in the course of professional practice only to dispense controlled substances upon a written or oral prescription under specified conditions. An oral prescription for controlled substances must be promptly reduced to writing by the pharmacist. The written prescription must be dated and signed by the prescribing practitioner on the day when issued. There must appear on the face of the prescription or written record for the controlled substance: the full name and address of the person for whom, or the owner of the animal for which, the controlled substance is dispensed; the full name and address of the prescribing practitioner and the prescriber's federal controlled substance registry number must be printed thereon; if the prescription is for an animal, the species of animal for which the controlled substance is prescribed; the name of the controlled substance prescribed and the strength, quantity, and directions for the use thereof; the number of the prescription, as recorded in the prescription files of the pharmacy in which it is filed; and the initials of the pharmacist filling the prescription and the date filled. Section 893.04(1)(d), F.S., requires the proprietor of the pharmacy in which a prescription for controlled substances is filled to retain the prescription on file for a period of 2 years. The chapter requires the original container in which a controlled substance is dispensed to bear a label with specified information.

III. Effect of Proposed Changes:

Section 1. Amends s. 464.003, F.S., to define “clinical nurse specialist practice” to mean the delivery and management of expert-level nursing care to individuals or groups, including the ability to:

- Assess the health status of individuals and families using methods appropriate to the population and area of practice.
- Diagnose human responses to actual or potential health problems.
- Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
- Implement therapeutic interventions based on the nurse specialist’s area of expertise, including, but not limited to, direct nursing care, counseling, teaching, and collaboration with other licensed health care providers.
- Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.

“Clinical nurse specialist” is defined as any person licensed in Florida to practice professional nursing and certified in clinical nurse specialist practice.

Section 2. Creates s. 464.0115, F.S., to provide procedures for a nurse to be certified as a clinical nurse specialist. Any nurse may apply to DOH and submit proof that he or she holds a current license to practice professional nursing, a master’s degree in a clinical nursing specialty, and current certification in a specialty area as a clinical nurse specialist from a nationally recognized certifying body as determined by the Board of Nursing. The Board of Nursing is required to certify, and DOH must issue a certificate to, any nurse meeting the qualifications in this section. The board must establish an application fee not to exceed \$25 and a biennial renewal fee not to exceed \$10. The Board of Nursing is given rulemaking authority to implement the provisions of this section.

Section 3. Creates s. 464.0125, F.S., to authorize an advanced registered nurse practitioner certified under s. 464.012, F.S., to prescribe medications after registering with the Board of Nursing. To register to prescribe noncontrolled legend drugs, the advanced registered nurse practitioner must:

- Possess an active unrestricted license and certification as an advanced registered nurse practitioner.
- Possess an active and current certification by an appropriate specialty board or, in the alternative, submit to the Board of Nursing documentation demonstrating that the registrant has been prescribing medications for a period of at least 12 months before obtaining registration as a prescribing practitioner.
- Submit to the board documentation that the advanced registered nurse practitioner has completed at least 16 contact hours of approved continuing education in pharmacology during the past 2 years, in addition to required continuing education for renewal; or in the alternative, submit documentation demonstrating that the advanced registered nurse practitioner has been prescribing medications for a period of at least 12 months before obtaining registration as a prescribing practitioner.

- Submit a copy of the protocol between the advanced registered nurse practitioner and the supervising physician. The protocol must identify the categories of drugs that the advanced registered nurse practitioner is authorized to prescribe and must require, as an element of general supervision, that the advanced registered nurse practitioner meet with the supervising physician at least once every 3 months to review and discuss patient care, patient treatments and medication, and care outcomes. The Board of Nursing may, by rule, establish minimum requirements for this meeting. The requirements for the supervising physician are specified: possession of a current, unrestricted license to practice medicine or osteopathic medicine in Florida; have a primary practice location in Florida; and possesses a current and unrestricted Drug Enforcement Administration registration number.
- Agree to maintain adequate medical records, according to rule of the Board of Nursing, which include specified elements at a minimum for each prescription: medication and strength; dose; amount prescribed; directions for use; number of refills; and signature of the prescribing practitioner; and
- Submit a completed registration form and fee not greater than \$75.

To register to prescribe controlled substances, an advanced registered nurse practitioner must comply with all the requirements for registration to prescribe noncontrolled substances and must also:

- Possess a valid mid-level practitioner registration issued by the Drug Enforcement Administration and 12 months' experience in prescribing medicinal drugs.
- Submit to the board documentation demonstrating that the advanced registered nurse practitioner has completed an approved 3-contact-hour course in legal and clinical aspects of prescribing controlled substances.
- Identify as part of the protocol between the advanced registered nurse practitioner and the supervising physician the schedules of controlled substances that the advanced registered nurse practitioner is authorized to prescribe.
- Complete at least 2 contact hours of approved continuing education in controlled substance prescribing during each biennial licensure period, in addition to any other continuing education required for licensure renewal, but it may satisfy part of the 16 hours of continuing education required for the registration to prescribe noncontrolled substances.

To register or renew registration to prescribe medicinal drugs, an advanced registered nurse practitioner must complete at least 16 contact hours of approved continuing education in pharmacology during each 2-year licensure period, in addition to the continuing education required for licensure renewal. The board must provide by rule for biennial renewal of registration and a renewal fee no greater than \$25.

An advanced registered nurse practitioner who is a certified registered nurse anesthetist in Florida does not need to register to provide anesthesia care. An advanced registered nurse practitioner is prohibited from prescribing controlled substances for his or her personal use or for use by his or her immediate family. The Board of Nursing may limit, suspend, or revoke an advanced registered nurse's registration to prescribe. The Board of Nursing is authorized to adopt rules necessary to implement the requirements of the bill.

Section 4. Amends s. 464.015, F.S., relating to protected titles in nursing, to limit to only persons who hold valid certificates to practice as a clinical nurse specialist in Florida the right to use the title “Clinical Nurse Specialist” and the abbreviation “C.N.S.” In addition to those nursing titles already protected under current law, no person may practice or advertise as, or assume the title of, clinical nurse specialist or the use the abbreviation “C.N.S.” or take any other action that would lead the public to believe that the person was certified. A violation of the prohibition is a first degree misdemeanor punishable by imprisonment of up to 1 year and a fine of up to \$1,000.

Section 5. Amends s. 464.016, F.S., relating to violations and penalties, to make practicing clinical specialty nursing as defined in part I, chapter 464, F.S., a third degree felony punishable by imprisonment of up to 5 years and a fine of up to \$5,000, unless holding an active certificate to do so.

The criminal violation for the use of specified protected names or titles is revised to include the name or title “Clinical Nurse Specialist” unless the person is duly certified. A violation of the prohibition is a first degree misdemeanor punishable by imprisonment of up to 1 year and a fine of up to \$1,000.

Section 6. Amends s. 893.02, F.S., to expand the definition of the term “practitioner” to include a Florida-certified advanced registered nurse practitioner who is registered to prescribe controlled substances and who possess a valid mid-level practitioner registration number issued by the United States Drug Enforcement Administration.

Section 7. Amends s. 458.348, F.S., relating to formal protocols between a physician and an emergency medical technician, paramedic, or advanced registered nurse practitioner, to correct a statutory cross-reference in the nursing practice act.

Section 8. Amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners, to correct a statutory cross-reference.

Section 9. Reenacts s. 921.0022(3)(g), F.S., relating to the Criminal Punishment Code, for purposes of incorporating an amendment to s. 464.016, F.S.

Section 10. Provides an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Advanced registered nurse practitioners who wish to prescribe medications must pay a registration fee no greater than \$75.

Nurses who wish to use the designation "Clinical Nurse Specialist" must pay an application fee no greater than \$25 and a biennial renewal fee no greater than \$10.

B. Private Sector Impact:

To the extent that the bill authorizes advanced registered nurse practitioners to prescribe controlled substances, it may increase patient access to prescriptive services of such practitioners.

C. Government Sector Impact:

The Department of Health will incur costs relating to the requirements for the Board of Nursing to adopt rules to implement the registration requirements and to enforce the bill. The department indicates that it would require 4 additional positions and a total of \$186,501 for fiscal year 2004-2005 and \$212,971 for fiscal year 2005-2006, to implement the bill. An estimated 7,508 (approximately 80 percent of the current number of advanced registered nurse practitioners) would seek the registration and about 50 percent of those would apply for the controlled substances registration. The department will obtain \$676,625 in revenue for fiscal year 2004-2005 and \$145,000 for fiscal year 2005-2006 to offset its expenditures. Revenues were estimated based on the following:

- 2,065 Clinical Nurse Specialist applicants in FY 2004-2005 and 200 in FY 2005-2006.
- 7,500 advanced registered nurse practitioners will register to prescribe medicinal drugs in FY 2004-2005 and 200 in FY 2005-2006 at \$75.
- 2,500 advanced registered nurse practitioners will renew to prescribe controlled substances in FY 2004-2005 and 5,000 in FY 2005-2006 at \$25.

The Department of Health reports that the fiscal impact of processing the applications for clinical nurse specialists will be the same as for advanced registered nurse practitioners. The bill authorizes, for clinical nurse specialists, a fee cap of \$25 for application and \$10 for renewal. For advanced registered nurse practitioners, the application fee is \$75 and the renewal fee is \$50. The Florida Board of Nursing staff reports that the average clinical nurse specialist application fee for the thirteen states the staff polled was \$104 and the average renewal fee was \$69. After FY 2004-2005, DOH

reports that revenue collected in subsequent years from clinical nurse specialists will be insufficient to recover department administration costs. As a result the fee structure in the bill will, in effect, permit the fees obtained from advanced registered nurse practitioners to subsidize the regulatory costs for clinical nurse specialists.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
