

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Judiciary Committee

BILL: SB 716

INTRODUCER: Senator Fasano

SUBJECT: Clinical Laboratories

DATE: March 4, 2008

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|-----------|
| 1. | Munroe | Wilson | HR | Favorable |
| 2. | Daniell | Maclure | JU | Favorable |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill requires clinical laboratories to accept human specimens submitted for examination by Florida-licensed advanced registered nurse practitioners.

This bill amends section 483.181, Florida Statutes.

II. Present Situation:

Nursing

Chapter 464, F.S., regulates the profession of nursing. Most states have a “Nurse Practice Act,” which is a set of laws that “govern specific aspects of the nursing profession” and protect “the public from an unsafe nurse by ensuring minimum levels of performance.”¹ Florida’s Nurse Practice Act, codified in part I, ch. 464, F.S., provides minimum requirements to ensure the safe practice of nursing in the state, including requirements for licensure of licensed practical nurses, registered nurses, and advanced registered nurse practitioners.

An advanced registered nurse practitioner (“ARNP”) is defined as “any person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice.”² An ARNP must have a master’s degree and can be a certified nurse anesthetist, certified nurse

¹ Kevin Erickson, *The Nurse Practice Act – A Closer Look*, <http://www.isnare.com/?aid=27070&ca=Legal> (last visited Feb. 22, 2008).

² Section 464.003(7), F.S.

midwife, or nurse practitioner.³ In order to become certified as an ARNP, a nurse must submit an application to the Department of Health showing that he or she has a current license to practice professional nursing and that he or she meets certain requirements set forth by the Board of Nursing. These requirements include:

- 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.
- Certification by an appropriate specialty board.
- Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills.⁴

Additionally, the Board of Nursing requires ARNPs to have a minimum of \$100,000/300,000 (per incident and aggregate respectively) in medical malpractice insurance.⁵

Under the Nurse Practice Act, an advanced registered nurse practitioner must perform his or her authorized functions under an established protocol that must be filed with the Board of Nursing.⁶ Practitioners licensed in the medical practice, osteopathy, or dentistry supervise the ARNP within the framework of the protocol.⁷ The Board of Nursing and the Board of Medicine have filed identical administrative rules⁸ setting forth standards for the protocols, which establish obligations on medical physicians, osteopathic physicians, and dentists who enter into protocol relationships with ARNPs. 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 rules regarding the standards for advanced registered nurse practitioner protocols.

The duties of advanced registered nurse practitioners include:

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- *Ordering and evaluating diagnostic tests;*
- Ordering physical and occupational therapy;
- Performing acts of nursing diagnosis and nursing treatment of alterations of the health status;
- Performing acts of medical diagnosis and treatment, prescription, and operation.⁹

³ *Id.*; see also e-mail correspondence from a Florida Nurses Association representative to the Senate Committee on Judiciary, Feb. 18, 2008 (on file with the Senate Committee on Judiciary). According to s. 464.012(1)(c), F.S., applicants applying to become an advanced registered nurse practitioner graduating on or after October 1, 1998, must have a master's degree for certification. Additionally, applicants who want to be a registered nurse anesthetist and graduate on or after October 1, 2001, must have a master's degree.

⁴ Section 464.012(1), F.S.

⁵ FLORIDA BOARD OF NURSING, FLORIDA DEPARTMENT OF HEALTH, *Frequently Asked Questions*, http://www.doh.state.fl.us/mqa/nursing/nur_faq.html (follow "ARNP" link) (last visited Feb. 22, 2008).

⁶ Section 464.012(3), F.S.

⁷ *Id.*

⁸ Florida Admin. Code R. 64B9-4.010 and 64B8-35.002.

⁹ Sections 464.012(3) and 464.003(3)(d), F.S. (emphasis added).

An advanced registered nurse practitioner may also perform certain duties within his or her specialty.¹⁰ Although ARNPs may prescribe medications in accordance with the protocol and under the authority of the supervising physician, they cannot prescribe controlled substances.¹¹

Clinical Laboratories

Clinical laboratories are governed by the provisions of part I, ch. 483, F.S. A clinical laboratory is the physical location where statutorily defined services “are performed to provide information or materials for use in the diagnosis, prevention, or treatment of a disease or the identification or assessment of a medical or physical condition.”¹² The state of Florida requires any facility that operates as a clinical laboratory to obtain a state clinical laboratory license as well as a federal Clinical Laboratory Improvement Amendment certificate.¹³

Under Florida law, a “clinical laboratory may examine human specimens at the request only of a licensed practitioner or other person authorized by law to use the findings of clinical laboratory examinations.”¹⁴ A “licensed practitioner” is defined under the regulation for clinical laboratories to mean a Florida-licensed medical physician, physician assistant, osteopathic physician, chiropractic physician, podiatric physician, dentist, naturopathic physician, or advanced registered nurse practitioner.¹⁵ The statute also recognizes practitioners from another state licensed under similar statutes, with certain qualifiers, as a licensed practitioner for purposes of ch. 483, F.S.

Section 483.181, F.S., permits a clinical laboratory to examine human specimens at the request of an advanced registered nurse practitioner, but it does not require the laboratory to do so. However, a clinical laboratory *must* accept a human specimen for examination by a Florida-licensed medical physician, physician assistant, osteopathic physician, chiropractic physician, naturopathic physician, or dentist, if the specimen and test are the type performed by the clinical laboratory. The only way a clinical laboratory may refuse a specimen from these practitioners is based upon a history of nonpayment for services by the practitioner. Additionally, a clinical laboratory may not charge a different price for tests based on what kind of licensed practitioner is submitting the test.¹⁶

¹⁰ Section 464.012(4), F.S.

¹¹ FLORIDA BOARD OF NURSING, *supra* note 5. Florida is one of three states that do not allow advanced registered nurse practitioners to prescribe controlled substances. The other two states are Alabama and Missouri. OFFICE OF PROGRAM POLICY ANALYSIS & GOVERNMENT ACCOUNTABILITY, FLA. LEGISLATURE, *Florida Nurse Practice Act and Board of Nursing Rules Create No Unreasonable Barriers to Producing New Nurses*, Report No. 07-04, at 5 (Jan. 2007), <http://www.oppaga.state.fl.us/reports/pdf/0704rpt.pdf> (last visited Feb. 22, 2008).

¹² Section 483.041(2), F.S.

¹³ AGENCY FOR HEALTH CARE ADMINISTRATION, *Clinical Laboratories*, http://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Laboratory_Licensure/clinical.shtml (last visited Feb. 22, 2008).

¹⁴ Section 483.181(1), F.S.

¹⁵ Section 483.041(7), F.S.

¹⁶ Section 483.181(5), F.S.

III. Effect of Proposed Changes:

The bill amends s. 483.181, F.S., to require clinical laboratories to accept specimens submitted for examination by Florida-licensed advanced registered nurse practitioners. The clinical laboratory could only refuse a specimen submitted by an advanced registered nurse practitioner based on a history of nonpayment. Additionally, a clinical laboratory could not charge prices to an advanced registered nurse practitioner that are different than prices they charge to other licensed practitioners.

The effective date of the bill is July 1, 2008.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Advanced registered nurse practitioners will be able to have human specimens from their patients examined at any clinical laboratory in Florida that performs the type of test requested. To the extent that the bill eliminates any costs that are associated with an advanced registered nurse practitioner's inability to submit human specimens for examination in some clinical laboratories, the practitioner's patients may benefit by having greater access to care.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
