

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 335 Health Care Practitioners

SPONSOR(S): Plasencia

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Guzzo	O'Callaghan
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

In 1971, the Legislature passed the Florida Mental Health Act (also known as "The Baker Act") to address mental health needs of individuals in the state.

The Baker Act authorizes involuntary examination of an individual who appears to have a mental illness and who, because of mental illness, presents a substantial threat of harm to themselves or others. Involuntary examination may be initiated by courts, law enforcement officers, physicians, clinical psychologists, psychiatric nurses, mental health counselors, marriage and family therapists, and clinical social workers. The individual is taken to a receiving facility and is examined by a physician or clinical psychologist. Upon the order of a physician, the individual may be given emergency treatment if it is determined that such treatment is necessary. To be released from the facility, the patient must have documented approval from a psychiatrist or clinical psychologist. If the receiving facility is a hospital, the release may be approved by an attending emergency department physician. Receiving facilities are prohibited from holding a patient for involuntary examination for longer than 72 hours.

A psychiatric nurse is a registered nurse licensed under ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing and 2 years of post-master's clinical experience under the supervision of a physician.

The bill revises the definition of "psychiatric nurse" by removing the required 2 years of post-master's clinical experience under the supervision of a physician. Instead, the bill requires the individual to obtain a national advanced practice certification as a psychiatric-mental health advanced practice nurse.

The bill authorizes a psychiatric nurse to:

- Examine a patient upon admission to a receiving facility; and
- Approve a patient to be discharged from a receiving facility.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Involuntary Examination Under the Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state.¹ Part I of ch. 394, F.S., provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment.

Current law provides that an involuntary examination may be initiated for a person if there is reason to believe the person has a mental illness and because of the illness:²

- The person has refused a voluntary examination after explanation of the purpose of the exam or is unable to determine for themselves that an examination is needed; and
- The person is likely to suffer from self-neglect, cause substantial harm to themselves, or be a danger to themselves or others.

An involuntary examination may be initiated by a circuit court or a law enforcement officer.³ A circuit court may enter an ex parte order stating a person meets the criteria for involuntary examination. A law enforcement officer, as defined in s. 943.10, F.S., may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination.

In addition, the following professionals, when they have examined a person within the preceding 48 hours, may issue a certificate stating that the person meets the criteria for involuntary examination:⁴

- A physician licensed under ch. 458, F.S., or an osteopathic physician licensed under ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders.
- A physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility.
- A clinical psychologist, as defined in s. 490.003(7), F.S., with 3 years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.
- A psychiatric nurse licensed under part I of ch. 464, F.S., who has a master’s degree or a doctorate in psychiatric nursing and 2 years of post-master’s clinical experience under the supervision of a physician.
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.
- A clinical social worker licensed under ch. 491, F.S.

The Department of Children and Families (DCF) administers the Baker Act through receiving facilities which provide for the examination of persons with evidence of a mental illness. Receiving facilities are designated by DCF and may be public or private facilities which provide the examination and short-term treatment of persons who meet criteria under the Baker Act.⁵ Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment

¹ Section 1, ch. 71-131, L.O.F.

² Section 394.463(1), F.S.

³ Section 394.463(2)(a), F.S.

⁴ *Id.*

⁵ Section 394.455(26), F.S.

facilities designated by DCF are state hospitals (e.g., Florida State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.⁶

An individual taken to a receiving facility must be examined by a physician or clinical psychologist. Upon the order of a physician, the individual may be given emergency treatment if it is determined that such treatment is necessary. To be released from the facility, the patient must have documented approval from a psychiatrist or clinical psychologist. If the receiving facility is a hospital, the release may be approved by an attending emergency department physician. Receiving facilities are prohibited from holding a patient for involuntary examination for longer than 72 hours.

Advanced Registered Nurse Practitioners (ARNPs)

Part I of ch. 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (board). Licensure requirements to practice advanced and specialized nursing include completion of education requirements,⁷ demonstration of passage of a DOH approved examination, a clean criminal background screening, and payment of applicable fees.⁸ Renewal is biennial and contingent upon completion of certain continuing medical education requirements.

A nurse who holds a license to practice advanced and specialized nursing may be certified as an ARNP under s. 464.012, F.S., if the nurse meets one or more of the following requirements as determined by the board:

- Completion of a post basic education program of at least one academic year that prepares nurses for advanced or specialized practice;
- Certification by a specialty board, such as a registered nurse anesthetist or nurse midwife; or
- Possession of a master's degree in a nursing clinical specialty area.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.⁹ All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or a dentist.¹⁰ ARNPs may carry out treatments as specified in statute, including:¹¹

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- Performing additional functions as may be determined by rule in accordance with s. 464.003(2), F.S.; and
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above allowed acts, ARNPs may also perform other acts as authorized by statute and within his or her specialty.¹² Further, if it is within the ARNPs established protocol, the ARNP may identify behavioral problems, make diagnosis, and recommend treatment.¹³

Psychiatric Nurses

⁶ Section 394.455(32), F.S.

⁷ Rule 64B9-4.003, F.A.C., provides that an Advanced Nursing Program shall be at least one year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

⁸ Section 464.009, F.S., provides an alternative to licensure by examination for nurses through licensure by endorsement.

⁹ Section 464.012(2), F.S.

¹⁰ Section 464.012(3), F.S.

¹¹ *Id.*

¹² Section 464.012(4), F.S.

¹³ Section 464.012(4)(c)5, F.S.

Florida law requires a psychiatric nurse to be licensed as a registered nurse (RN), hold a master's or doctoral degree in psychiatric nursing, and have 2 years of post-master's clinical experience under the supervision of a physician.¹⁴

Currently, in Florida, psychiatric nurses are not required to hold a national advance practice certification. If an individual chooses to become certified, they must meet certain eligibility requirements. To be eligible for national certification an individual must:¹⁵

- Hold a current, active RN license;
- Hold a master's, postgraduate, or doctoral degree from an accredited family psychiatric-mental health nurse practitioner program;
- Complete specified graduate-level courses;¹⁶ and
- Have a minimum of 500 faculty-supervised clinical hours.

Eligible candidates may take a national certification examination developed by the American Nurses Credentialing Center. If certified, the individual must provide 1,000 clinical hours of patient care and log 75 hours of continuing education every five years. Certified psychiatric nurses must be recertified every five years.¹⁷

Effect of Proposed Changes

The bill amends s. 394.463, F.S., relating to involuntary examination under the Baker Act and the professionals authorized to examine and discharge patients at receiving facilities. The bill authorizes a psychiatric nurse to:

- Examine a patient upon admission to a receiving facility; and
- Approve a patient to be discharged from a receiving facility.

The bill also revises the definition of "psychiatric nurse" by removing the required 2 years of post-master's clinical experience under the supervision of a physician. Instead, the bill requires the individual to obtain a national advanced practice certification as a psychiatric-mental health advanced practice nurse.

B. SECTION DIRECTORY:

Section 1: Amends s. 394.455, F.S., relating to the definition of "psychiatric nurse".

Section 2: Amends s. 394.463, F.S., relating to involuntary examination.

Section 3: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

¹⁴ Section 394.455(23), F.S.

¹⁵ American Nurses Credentialing Center; *Psychiatric-Mental Health Nurse Practitioner Certification Eligibility Criteria*, available at <http://www.nursecredentialing.org/FamilyPsychNP-Eligibility.aspx> (last visited February 6, 2015).

¹⁶ *Id.* The individual must have completed three separate, comprehensive graduate-level courses in: Advanced physiology/pathophysiology, including general principles that apply across the life span; Advanced health assessment, which includes assessment of all human systems, advanced assessment techniques, concepts, and approaches; and Advanced pharmacology, which includes pharmacodynamics, pharmacokinetics, and pharmacotherapeutics of all broad categories of agents; with content in Health promotion or maintenance; Differential diagnosis and disease management, including the use and prescription of pharmacologic and nonpharmacologic interventions; and clinical training in at least two psychotherapeutic treatment modalities.

¹⁷ American Nurses Credentialing Center: *FAQs about Advanced Practice Psychiatric Nurses*, available at <http://www.apna.org/i4a/pages/index.cfm?pageid=3866> (last visited February 6, 2015).

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule-making is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES