A bill to be entitled

An act relating to health care; amending s. 395.1051, F.S.; requiring a hospital to notify obstetrical physicians before the hospital closes its obstetrical department or ceases to provide obstetrical services; providing legislative findings; permitting a hospital that has operated as a Level I, Level II, or pediatric trauma center for a specified period to continue operating at that trauma center level under certain conditions, notwithstanding any other provision of law; making a hospital that complies with such requirements eligible for renewal of its 7-year approval period under s. 395.4025(6), F.S.; requiring a hospital that obtains a trauma center consultation report following the site visit to provide the report to the Department of Health; requiring the department to use the trauma center consultation reports in any assessment of the state trauma system; amending s. 395.401, F.S.; restricting trauma service fees to $15,000 until July 1, 2015; amending s. 395.4025, F.S.; requiring each trauma center to post its trauma activation fee in the trauma center and in a prominent position on the trauma center Internet website home page; amends s. 408.036, F.S.; providing an exemption from certificate of need requirements for the relocation of not more than 15 percent of acute care

hospital beds from a licensed hospital to another location within the county where the hospital is located; requiring certain information to be included in a request for exemption; creating s. 456.47, F.S.; defining terms; providing for certain practice standards for telehealth providers; providing for the maintenance and confidentiality of medical records; requiring the registration of health care professionals not licensed in this state in order to use telehealth to deliver health care services; providing registration requirements; prohibiting registrants from opening an office or providing in-person health care services in this state; requiring a registrant to notify the appropriate board or the Department of Health of certain actions against the registrant's professional license; prohibiting a health care professional with a revoked license from being registered as a telehealth provider; providing exemptions to the registration requirement; providing rulemaking authority; creating s. 463.0125, F.S.; requiring certain conditions and criteria to be met in situations where telehealth is used to diagnose and treat the human eye and its appendages; amending s. 381.026, F.S.; including independent nurse practitioners within the definition of "health care provider"; amending s. 382.008, F.S.; authorizing

independent nurse practitioners to certify causes of death and to sign, correct, and file death certificates; amending s. 394.463, F.S.; authorizing an independent nurse practitioner to execute a certificate to require, under the Baker Act, an involuntary examination of a person; authorizing a qualified independent nurse practitioner to examine a person at a receiving facility and approve the release of a person at the receiving facility under the Baker Act; amending s. 456.048, F.S.; requiring independent nurse practitioners to maintain medical malpractice insurance or provide proof of financial responsibility; exempting independent nurse practitioners from such requirements under certain circumstances; amending s. 456.072, F.S.; requiring the suspension and fining of an independent nurse practitioner for prescribing or dispensing a controlled substances in a certain manner; amending s. 456.44, F.S.; providing certain requirements for independent nurse practitioners who prescribe controlled substances for the treatment of chronic nonmalignant pain; amending s. 464.003, F.S.; revising the definition of "advanced or specialized nursing practice" to require a joint committee to establish an exclusionary formulary of controlled substances; creating a definition for "independent nurse

practitioner"; amending s. 464.012, F.S.; authorizing advanced registered nurse practitioners to perform certain acts as they relate to controlled substances; providing limitations; amending s. 464.0125, F.S., providing for the registration of qualified advanced registered nurse practitioners as independent nurse practitioners; authorizing registered independent nurse practitioners to perform certain acts; requiring advanced registered nurse practitioners registered as independent nurse practitioners to include their registered status on their practitioner profile; requiring independent nurse practitioners to complete a certain amount of continuing education in pharmacology for biennial renewal of registration; aligning the biennial renewal cycle period for registration for independent nurse practitioners with the advanced registered nurse practitioner licensure renewal cycle; authorizing the Board of Nursing to establish fees by rule; providing the board with rulemaking authority; amending s. 464.015, F.S.; providing title protection for independent nurse practitioners; creating s. 464.0155, F.S., requiring independent nurse practitioners to report adverse incidents to the Board of Nursing in a certain manner; providing for board review of the adverse incident; authorizing the board to take disciplinary action for

adverse incidents; amending s. 464.018, F.S.; adding certain acts to an existing list of acts for which nurses may be administratively disciplined; amending s. 893.02, F.S.; redefining "practitioner" to include independent nurse practitioners; providing an effective date.

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

Section 1. Section 395.1051, Florida Statutes, is amended to read:

395.1051 Duty to notify patients and physicians.—

(1) An appropriately trained person designated by each licensed facility shall inform each patient, or an individual identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient. Notification of outcomes of care which ~~that~~ result in harm to the patient under this section does ~~shall~~ not constitute an acknowledgment or admission of liability and may not~~, nor can it~~ be introduced as evidence.

(2) A hospital shall notify each obstetrical physician who has privileges at the hospital at least 120 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

Section 2. Effective upon this act becoming a law, the

Legislature finds that an integrated, comprehensive, and superior quality trauma system is necessary to protect the health, safety, and welfare of the residents of Florida and visitors to this state. The Legislature further finds that each trauma center operating in the state is an integral part of the trauma system and fulfills a critical need for trauma care in the area in which it is located. A disruption in the operational status of a trauma center may disrupt the availability of needed trauma services for residents of and visitors to Florida. The Legislature finds that all currently operating trauma centers in the state are contributing to an inclusive trauma system and are delivering needed trauma services so that optimal trauma care is available and accessible throughout the state.

Section 3. Effective upon this act becoming a law and notwithstanding any other provision of law, a hospital that has operated continuously as a Level I, Level II, or pediatric trauma center for a consecutive 12-month period after the enactment of chapter 2004-259, Laws of Florida, remains operational as of the effective date of this act, and submits an application for a site visit by the American College of Surgeons Committee on Trauma on or before April 1, 2015, for the purpose of obtaining a trauma center consultation report, may continue to operate at the same trauma center level as a verified Level I, Level II, or pediatric trauma center until the approval period in s. 395.4025(6), Florida Statutes, expires as long as the hospital continues to meet the other requirements of s.

395.4025(6), Florida Statutes, related to trauma center standards and patient outcomes. A hospital that meets the requirements of this section shall be eligible for renewal of its 7-year approval period pursuant to s. 395.4025(6), Florida Statutes.

Section 4. Effective upon this act becoming a law, each hospital that obtains a trauma center consultation report from the American College of Surgeons Committee on Trauma shall provide a copy of the report to the Department of Health. The department shall use the report in any assessment of the state trauma system.

Section 5. Effective upon this act becoming a law, paragraphs (k), (l), (m), (n), and (o) of subsection (1) of section 395.401, Florida Statutes, are redesignated as paragraphs (l), (m), (n), (o), and (p), respectively, and paragraph (k) is added to that subsection, to read:

395.401 Trauma services system plans; approval of trauma centers and pediatric trauma centers; procedures; renewal.—

(1)

(k) No hospital operating a trauma center may charge a trauma activation fee greater than $15,000. This paragraph expires on July 1, 2015.

Section 6. Effective upon this act becoming a law, subsection (15) is added to section 395.4025, Florida Statutes, to read:

395.4025 Trauma centers; selection; quality assurance;

records.—

(15) Each trauma center must post its trauma activation fee amount in a conspicuous place within the trauma center. The trauma activation fee amount must also be posted in a prominent position on the trauma center's Internet website home page.

Section 7. Effective January 1, 2015, section 456.47, Florida Statutes, is created to read:

456.47 Use of telehealth to provide services.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Telehealth" means the use of synchronous or asynchronous communication services technology by a telehealth provider to provide health care services, including, but not limited to, patient assessment, diagnosis, consultation, treatment, monitoring and transfer of medical data, patient and professional health-related education, public health, and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

(b) "Telehealth provider" means any individual person who provides health care and related services using telehealth and who is licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part III, part IV, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; or who is registered under this section and is in compliance with paragraph (4)(a).

(2) PRACTICE STANDARD.—

(a) The standard of care for telehealth providers providing health care services is the same as the standard of care for health care professionals providing in-person health care services to patients in this state. A telehealth provider is not required to research a patient's medical history or conduct a physical examination of the patient before using telehealth to provide services to the patient if the telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient. The evaluation may be performed using telehealth.

(b) A telehealth provider may not use telehealth to prescribe a controlled substance for chronic nonmalignant pain, as defined under s. 456.44, unless the controlled substance is ordered for inpatient treatment at a hospital licensed under ch. 395.

(c) A telehealth provider and a patient may each be in any location when telehealth is used to provide health care services to a patient.

(d) A non-physician telehealth provider using telehealth and acting within the relevant scope of practice, as established by Florida law and rule, may not be interpreted as practicing medicine without a license.

(3) RECORDS.—A telehealth provider shall document in the patient's medical record the health care services rendered using telehealth according to the same standard as used for in-person

services in this state. Medical records, including video, audio, electronic, or other records generated as a result of providing such services, are confidential pursuant to ss. 395.3025(4) and 456.057.

(4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

(a) A health care professional not licensed in this state may provide health care services to a patient located in this state using telehealth if the telehealth provider annually registers with the applicable board, or the department if there is no board, and provides health care services within the relevant scope of practice established by Florida law and rule.

(b) The board, or the department if there is no board, shall register a health care professional as a telehealth provider if the health care professional:

1. Completes an application form developed by the department;

2. Pays a $150 registration fee; and

3. Holds an active, unencumbered license for a profession included in paragraph (1)(b) issued by another state, the District of Columbia, or a possession or territory of the United States and against whom no disciplinary action has been taken during the 5 years before submission of the application. The department shall use the National Practitioner Data Bank to verify information submitted by an applicant.

(c) A health care professional registered under this section is prohibited from opening an office in this state and

from providing in-person health care services to patients located in this state.

(d) A health care professional registered under this section must immediately notify the appropriate board, or the department if there is no board, of restrictions placed on the health care professional's license to practice, or disciplinary action taken against the health care professional, in any state or jurisdiction.

(e) A pharmacist registered under this section may only use a Florida pharmacy permitted under ch. 465, or a nonresident pharmacy registered under s. 465.0156, to dispense medicinal drugs to Florida patients.

(f) A health care professional whose license to provide health care services is subject to a pending disciplinary investigation or which has been revoked in any state or jurisdiction may not register under this section.

(g) The department shall publish on its website a list of all registrants and include each registrant's:

1. Name.

2. Health care occupation.

3. Completed health care training and education, including completion dates and any certificates or degrees obtained.

4. Out-of-state health care license with license number.

5. Florida telehealth provider registration number.

6. Specialty.

7. Board certification.

8. 5 year disciplinary history, including sanctions and board actions.

9. Medical malpractice insurance provider and policy limits, including whether the policy covers claims which arise in this state.

(h) The department may revoke a telehealth provider's registration if the registrant:

1. Fails to immediately notify the department of any adverse actions taken against his or her license as required under subsection (4)(d).

2. Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction.

3. Violates any of the requirements of this section.

(5) JURISDICTION.- For the purposes of this section, any act that constitutes the delivery of health care services shall be deemed to occur at the place where the patient is located at the time the act is performed.

(6) EXEMPTIONS.— A health care professional who is not licensed to provide health care services in this state but who holds an active license to provide health care services in another state or jurisdiction, and who provides health care services using telehealth to a patient located in this state, is not subject to the registration requirement under this section if the services are provided:

(a) In response to an emergency medical condition as defined in s. 395.002; or

(b) In consultation with a health care professional licensed in this state and that health care professional retains ultimate authority over the diagnosis and care of the patient.

(6) RULEMAKING.—The applicable board, or the department if there is no board, may adopt rules to administer the requirements of this section.

Section 8. Effective January 1, 2015, section 463.0125, Florida Statutes, is created to read:

463.0125 The use of telehealth to diagnose and treat the human eye and its appendages.—

(1) If automated equipment and computer controlled devices are used to provide services through telehealth to diagnose and treat the human eye and its appendages, the following requirements must be met:

(a) The automated equipment must be approved by the United States Food and Drug Administration for its intended use;

(b) The automated equipment must be designed and operated in a manner that provides any accommodation required by the ADA Amendments Act of 2008;

(c) The automated equipment and accompanying technology used for the collection and transmission of information and data, including photographs and scans, must gather and transmit protected health information in compliance with the Health Insurance Portability and Accountability Act;

(d) The procedure for which the automated equipment is used must have a recognized Current Procedural Technology code

approved by the Center for Medicare and Medicaid Services;

(e) The physical location of the automated equipment must prominently display in writing the name and Florida health care licensure number of the individual who will read and interpret the diagnostic information and data, including photographs and scans and provide any necessary treatment;

(f) Diagnostic information and data, including photographs and scans gathered by the automated equipment must be read and interpreted by a health care practitioner licensed under chapter 458, chapter 459, or chapter 463 skilled in diseases of the human eye who thereafter provides the patient with any necessary and authorized treatment based on the diagnostic information and data; and

(g) The owner or lessee of the automated equipment must maintain liability insurance in an adequate amount to cover claims made by individuals diagnosed and treated based on information and data, including photographs and scans, generated by the automated equipment.

(2) A prescription for spectacles or contact lens may not be based on a diagnosis made while using telehealth or based solely on the refractive error of the human eye generated by a computer controlled device such as an auto-refractor.

Section 9. Paragraph (t) is added to subsection (3) of section 408.036, Florida Statutes, to read:

408.036 Projects subject to review; exemptions.—

(3) EXEMPTIONS.—Upon request, the following projects are

subject to exemption from the provisions of subsection (1):

(t) For the relocation of not more than fifteen percent of an acute care hospital's beds licensed under Chapter 395 within the county where the hospital is located. In addition to any other documentation otherwise required by the agency, a request for exemption submitted under this paragraph must:

1. Certify that the applicant has at least 500 beds licensed under Chapter 395.

2. Certify that the hospital provides care to a greater number of indigent persons than any other acute care hospital operating in the same county. For the purpose of this paragraph, "indigent persons" means Medicaid recipients and uninsured individuals.

3. Certify that at least 40% of the care provided by the applicant qualifies as care for indigent persons measured by gross revenues or patient days as demonstrated by the four most recent quarterly reports filed with the agency or demonstrated for most recent complete fiscal year.

4. Certify that the applicant has an investment grade bond credit rating from a nationally recognized statistical rating organization.

5. Certify that relocation of the beds is for the purpose of enhancing the fiscal stability of the applicant's facility.

Section 10. Paragraph (c) of subsection (2) of section 381.026, Florida Statutes, is amended to read:

381.026 Florida Patient's Bill of Rights and

Responsibilities.—

(2) DEFINITIONS.—As used in this section and s. 381.0261, the term:

(c) "Health care provider" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, ~~or~~ a podiatric physician licensed under chapter 461, or an independent nurse practitioner registered under part I of chapter 464.

Section 11. Paragraph (a) of subsection (2), paragraph (b) of subsection (3), and subsections (4) and (5) of section 382.008, Florida Statutes, are amended to read:

382.008 Death and fetal death registration.—

(2)(a) The funeral director who first assumes custody of a dead body or fetus shall file the certificate of death or fetal death. In the absence of the funeral director, the physician, independent nurse practitioner, or other person in attendance at or after the death or the district medical examiner of the county in which the death occurred or the body was found shall file the certificate of death or fetal death. The person who files the certificate shall obtain personal data from the next of kin or the best qualified person or source available. The medical certification of cause of death shall be furnished to the funeral director, either in person or via certified mail or electronic transfer, by the physician, independent nurse practitioner, or medical examiner responsible for furnishing such information. For fetal deaths, the physician, certified

nurse midwife, midwife, or hospital administrator shall provide any medical or health information to the funeral director within 72 hours after expulsion or extraction.

(3) Within 72 hours after receipt of a death or fetal death certificate from the funeral director, the medical certification of cause of death shall be completed and made available to the funeral director by the decedent's primary or attending practitioner ~~physician~~ or, if s. 382.011 applies, the district medical examiner of the county in which the death occurred or the body was found. The primary or attending practitioner ~~physician~~ or the medical examiner shall certify over his or her signature the cause of death to the best of his or her knowledge and belief. As used in this section, the term "primary or attending practitioner ~~physician~~" means a physician or independent nurse practitioner registered under s. 464.0125, who treated the decedent through examination, medical advice, or medication during the 12 months preceding the date of death.

(b) If the decedent's primary or attending practitioner, ~~physician~~ or the district medical examiner of the county in which the death occurred or the body was found, indicates that he or she will sign and complete the medical certification of cause of death but will not be available until after the 5-day registration deadline, the local registrar may grant an extension of 5 days. If a further extension is required, the funeral director must provide written justification to the registrar.

(4) If the department or local registrar grants an extension of time to provide the medical certification of cause of death, the funeral director shall file a temporary certificate of death or fetal death which shall contain all available information, including the fact that the cause of death is pending. The decedent's primary or attending practitioner ~~physician~~ or the district medical examiner of the county in which the death occurred or the body was found shall provide an estimated date for completion of the permanent certificate.

(5) A permanent certificate of death or fetal death, containing the cause of death and any other information that was previously unavailable, shall be registered as a replacement for the temporary certificate. The permanent certificate may also include corrected information if the items being corrected are noted on the back of the certificate and dated and signed by the funeral director, physician, independent nurse practitioner, or district medical examiner of the county in which the death occurred or the body was found, as appropriate.

Section 12. Paragraph (a) and (f) of subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(a) An involuntary examination may be initiated by any one of the following means:

1. A court may enter an ex parte order stating that a

person appears to meet the criteria for involuntary examination, giving the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on sworn testimony, written or oral. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to the nearest receiving facility for involuntary examination. The order of the court shall be made a part of the patient's clinical record. No fee shall be charged for the filing of an order under this subsection. Any receiving facility accepting the patient based on this order must send a copy of the order to the Agency for Health Care Administration on the next working day. The order shall be valid only until executed or, if not executed, for the period specified in the order itself. If no time limit is specified in the order, the order shall be valid for 7 days after the date that the order was signed.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to the nearest receiving facility for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, and the report shall be made a part of the patient's clinical record. Any receiving facility accepting the patient based on this report must send a

copy of the report to the Agency for Health Care Administration on the next working day.

3. A physician, clinical psychologist, psychiatric nurse, independent nurse practitioner, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer shall take the person named in the certificate into custody and deliver him or her to the nearest receiving facility for involuntary examination. The law enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody. The report and certificate shall be made a part of the patient's clinical record. Any receiving facility accepting the patient based on this certificate must send a copy of the certificate to the Agency for Health Care Administration on the next working day.

(f) A patient shall be examined by a physician, ~~or~~ a clinical psychologist, or an independent nurse practitioner who is nationally certified as a psychiatric-mental health advanced practice nurse at a receiving facility without unnecessary delay and may, upon the order of a physician, be given emergency

treatment if it is determined that such treatment is necessary for the safety of the patient or others. The patient may not be released by the receiving facility or its contractor without the documented approval of a psychiatrist, a clinical psychologist, or an independent nurse practitioner who is nationally certified as a psychiatric-mental health advanced practice nurse, or, if the receiving facility is a hospital, the release may also be approved by an attending emergency department physician with experience in the diagnosis and treatment of mental and nervous disorders and after completion of an involuntary examination pursuant to this subsection. However, a patient may not be held in a receiving facility for involuntary examination longer than 72 hours.

Section 13. Subsection (1) of section 456.048, Florida Statutes, and paragraphs (a), (d), and (e) of subsection (2) are amended to read:

456.048 Financial responsibility requirements for certain health care practitioners.—

(1) As a prerequisite for licensure or license renewal, the Board of Acupuncture, the Board of Chiropractic Medicine, the Board of Podiatric Medicine, and the Board of Dentistry shall, by rule, require that all health care practitioners licensed under the respective board, and the Board of Medicine and the Board of Osteopathic Medicine shall, by rule, require that all anesthesiologist assistants licensed pursuant to s. 458.3475 or s. 459.023, and the Board of Nursing shall, by rule,

require that independent nurse practitioners registered under s. 464.0125 and advanced registered nurse practitioners certified under s. 464.012, and the department shall, by rule, require that midwives maintain medical malpractice insurance or provide proof of financial responsibility in an amount and in a manner determined by the board or department to be sufficient to cover claims arising out of the rendering of or failure to render professional care and services in this state.

(2) The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, s. 464.0125, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(16) or who is a volunteer under s. 110.501(1).

(d) Any person licensed or certified under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, s. 464.0125, chapter 466, or chapter 467 who practices only in conjunction with his or her teaching duties at an accredited school or in its main teaching hospitals. Such person may engage in the practice of medicine to the extent that such practice is

incidental to and a necessary part of duties in connection with the teaching position in the school.

(e) Any person holding an active license or certification under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, s. 464.0125, chapter 466, or chapter 467 who is not practicing in this state. If such person initiates or resumes practice in this state, he or she must notify the department of such activity.

Section 14. Subsection (7) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(7) Notwithstanding subsection (2), upon a finding that a physician or an independent nurse practitioner has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), 464.018(1)(p) or s. 466.028(1)(p) or (x), ~~the physician~~ such practitioner shall be suspended for a period of not less than 6 months and pay a fine of not less than $10,000 per count. Repeated violations shall result in increased penalties.

Section 15. Paragraph (a) of subsection (2) and paragraphs (b), (c), (d), (e), (f), and (g) of subsection (3) of section 456.44, Florida Statutes, are amended to read:

456.44 Controlled substance prescribing.—

(2) REGISTRATION.—Effective January 1, 2012, a physician

licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or an independent nurse practitioner registered under part I of chapter 464, who prescribes any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a) Designate himself or herself as a controlled substance prescribing practitioner on the practitioner's ~~physician's practitioner~~ profile.

(3) STANDARDS OF PRACTICE.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the practitioner ~~physician~~ shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) The practitioner ~~physician~~ shall discuss the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or the patient's surrogate or guardian if the patient is incompetent. The practitioner ~~physician~~ shall use a written controlled substance agreement between the practitioner ~~physician~~ and the patient outlining the patient's responsibilities, including, but not limited to:

1. Number and frequency of controlled substance prescriptions and refills.

2. Patient compliance and reasons for which drug therapy may be discontinued, such as a violation of the agreement.

3. An agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating practitioner ~~physician~~ unless otherwise authorized by the treating practitioner ~~physician~~ and documented in the medical record.

(d) The patient shall be seen by the practitioner ~~physician~~ at regular intervals, not to exceed 3 months, to assess the efficacy of treatment, ensure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects, and review the etiology of the pain. Continuation or modification of therapy shall depend on the practitioner's ~~physician's~~ evaluation of the patient's progress. If treatment

goals are not being achieved, despite medication adjustments, the practitioner ~~physician~~ shall reevaluate the appropriateness of continued treatment. The practitioner ~~physician~~ shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of 3-month intervals.

(e) The practitioner ~~physician~~ shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or psychiatrist.

(f) A practitioner ~~physician~~ registered under this section must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section, the applicable practice act, and applicable board rules. The medical records must include, but are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.

2. Diagnostic, therapeutic, and laboratory results.

3. Evaluations and consultations.

4. Treatment objectives.

5. Discussion of risks and benefits.

6. Treatments.

7. Medications, including date, type, dosage, and quantity prescribed.

8. Instructions and agreements.

9. Periodic reviews.

10. Results of any drug testing.

11. A photocopy of the patient's government-issued photo identification.

12. If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.

13. The practitioner's ~~physician's full~~ name presented in a legible manner.

(g) Patients with signs or symptoms of substance abuse shall be immediately referred to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the practitioner is a physician who is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing practitioner ~~physician~~ shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing

practitioner ~~physician~~ shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a practitioner ~~physician~~ who prescribes medically necessary controlled substances for a patient during an inpatient stay in

a hospital licensed under chapter 395.

Section 16. Subsections (16), (17), (18), (19), (20), (21), (22), and (23) of section 464.003, Florida Statutes, are renumbered as subsections (17), (18), (19), (20), (21), (22), (23), and (24), respectively, subsections (2) is amended in that section, and subsection (16) is added to that section, to read:

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

(2) "Advanced or specialized nursing practice" means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom must be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom must have had work experience with advanced registered nurse practitioners; and <u>one member appointed by the Board of Pharmacy</u> ~~the State Surgeon General or the State Surgeon General's designee~~. Each committee member appointed by a board shall be appointed to a term of 4

years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such medical acts must be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348 or s. 459.025. The joint committee must also establish a formulary of controlled substances that independent nurse practitioners registered under s. 464.0125, are prohibited from prescribing, administering, or dispensing. The board must adopt the exclusionary formulary developed by the joint committee in rule.

(16) "Independent nurse practitioner" means an advanced registered nurse practitioner who maintains an active and valid certification under s. 464.012(2) and registration under s. 464.0125 to practice advanced or specialized nursing independently and without the supervision of a physician or a protocol.

Section 17. Paragraph (c) of subsection (4) of section 464.012, Florida Statutes, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees.—

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

(c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:

1. Manage selected medical problems.

2. Order physical and occupational therapy.

3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.

4. Monitor and manage patients with stable chronic diseases.

5. Establish behavioral problems and diagnosis and make treatment recommendations.

6. Prescribe, dispense, order, or administer controlled substances to the extent authorized in the protocol and only to the extent the supervising physician is authorized to prescribe, dispense, order, or administer controlled substances.

Section 18. Section 464.0125, Florida Statutes, is created to read:

464.0125 Registration of independent nurse practitioners; fees.—

(1) To be registered as an independent nurse practitioner, an applicant must hold an active and unencumbered certificate issued by the department under s. 464.012, and a national nurse practitioner certificate issued by a nursing specialty board, and must have:

(a) Completed, in any jurisdiction of the United States, at least 2,000 clinical practice hours within a 3-year period immediately preceding the submission of the application and while practicing as an advanced registered nurse practitioner;

(b) Not been subject to any disciplinary action under s. 464.018 or s. 456.072, or any similar disciplinary action in any other jurisdiction, during the 5 years immediately preceding the submission of the application; and

(c) Completed a graduate level course in pharmacology.

(2) An independent nurse practitioner may perform, without physician supervision or a protocol, the acts authorized in s. 464.012(3), acts described in s. 464.012(4)(c), and any of the following:

(a) For a patient who requires the services of a health care facility, as defined in s. 408.032(8):

1. Admit the patient to the facility.

2. Manage the care that the patient receives in the facility.

3. Discharge the patient from the facility.

(b) Provide a signature, certification, stamp, verification, affidavit, or other endorsement that is otherwise required by law to be provided by a physician.

(c) Act as a patient's primary care provider.

(d) Administer, dispense, order, and prescribe medicinal drugs, including controlled substances if the controlled substances are not included in the formulary created pursuant to

s. 464.003(2).

(3) An advanced registered nurse practitioner registered as an independent nurse practitioner under this section must submit to the department proof of registration along with the information required under s. 456.0391, and the department shall include the registration in the advanced registered nurse practitioner's profile created pursuant to s. 456.041.

(4) To be eligible for biennial renewal of registration, an independent nurse practitioner must complete at least 10 hours of continuing education approved by the board in pharmacology in addition to completing the continuing education requirements established by board rule pursuant to s. 464.013. The biennial renewal for registration shall coincide with the independent nurse practitioner's biennial renewal period for advanced registered nurse practitioner certification.

(5) The board shall register any nurse meeting the qualifications in this section. The board shall establish an application fee not to exceed $100 and a biennial renewal fee not to exceed $50. The board is authorized to adopt rules as necessary to implement this section.

Section 19. Subsections (9) and (10) of section 464.015, Florida Statutes, are renumbered as subsections (10) and (11), respectively, subsection (10) is amended, and a new subsection (9) is added to that section, to read:

464.015 Titles and abbreviations; restrictions; penalty.—

(9) Only persons who are registered to practice as

independent nurse practitioners in this state may use the title "Independent Nurse Practitioner" and the abbreviation "I.N.P."

(10) ~~(9)~~ A person may not practice or advertise as, or assume the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, ~~or~~ advanced registered nurse practitioner, or independent nurse practitioner or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.," ~~or~~ "A.R.N.P.," or "I.N.P." or take any other action that would lead the public to believe that person was certified as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8), unless that person is licensed or certified to practice as such.

Section 20. Section 464.0155, Florida Statutes, is created to read:

464.0155 Reports of adverse incidents by independent nurse practitioners.—

(1) Effective January 1, 2015, an independent nurse practitioner must report an adverse incident to the board in accordance with this section.

(2) The report must be in writing, sent to the board by certified mail, and postmarked within 15 days after the adverse incident if the adverse incident occurs when the patient is at the office of the independent nurse practitioner. If the adverse incident occurs when the patient is not at the office of the independent nurse practitioner, the report must be postmarked

within 15 days after the independent nurse practitioner discovers, or reasonably should have discovered, the occurrence of the adverse incident.

(3) For the purpose of this section, the term "adverse incident" means any of the following events when it is reasonable to believe that the event is attributable to the prescription of a controlled substance by the independent nurse practitioner:

(a) Any condition that requires the transfer of a patient to a hospital licensed under chapter 395.

(b) Permanent physical injury to the patient.

(c) Death of the patient.

(4) The board shall review each adverse incident and determine whether the adverse incident is caused by the independent nurse practitioner. The board may take disciplinary action upon such a finding, in which event s. 456.073 applies.

Section 21. Paragraphs (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), and (z) are added to subsection (1) of section 464.018, Florida Statutes, to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(p) For an independent nurse practitioner registered under s. 464.0125:

1. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled

substance, other than in the course of the professional practice of the independent nurse practitioner. For the purposes of this subparagraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the independent nurse practitioner, without regard to the nurse's intent.

2. Dispensing a controlled substance listed in Schedule II or Schedule III in violation of s. 465.0276.

3. Presigning blank prescription forms.

4. Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the nurse for office use.

5. Prescribing, ordering, dispensing, administering, supplying, selling, or giving any Schedule II drug that is an amphetamine or sympathomimetic amine or any compound thereof, pursuant to chapter 893, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional liability, and impulsivity; or drug-induced brain dysfunction;

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

6. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

7. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

8. Promoting or advertising on any prescription form of a community pharmacy, unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

9. Promoting or advertising through any communication media the use, sale, or dispensing of any controlled substance appearing on any schedule in chapter 893.

10. Prescribing or dispensing any medicinal drug appearing on any schedule set forth in chapter 893 by the independent nurse practitioner for himself or herself or administering any such drug by the nurse to himself or herself unless such drug is

prescribed for the independent nurse practitioner by another practitioner authorized to prescribe medicinal drugs.

11. Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a health care practitioner, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this subparagraph shall not be construed to prevent an independent nurse practitioner from receiving a fee for professional consultation services.

12. Exercising influence within a patient-independent nurse practitioner relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her independent nurse practitioner.

13. Making deceptive, untrue, or fraudulent representations in or related to the practice of advanced or specialized nursing or employing a trick or scheme in the practice of advanced or specialized nursing.

14. Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

15. Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the independent nurse practitioner by name and professional title who is responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations or referrals.

16. Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs.

17. Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 766.103 or s. 768.13.

18. Performing any procedure or prescribing any therapy which, by the prevailing standards of advanced or specialized nursing practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed, and written consent.

19. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

20. Conspiring with another independent nurse practitioner or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another independent nurse practitioner from lawfully advertising his or her services.

21. Advertising or holding oneself out as having certification in a specialty which the independent nurse practitioner has not received.

22. Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

23. Providing deceptive or fraudulent expert witness testimony related to the advanced or specialized practice of nursing.

Section 22. Subsection (21) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(21) "Practitioner" means a physician licensed pursuant to chapter 458, a dentist licensed pursuant to chapter 466, a veterinarian licensed pursuant to chapter 474, an osteopathic physician licensed pursuant to chapter 459, a naturopath licensed pursuant to chapter 462, a certified optometrist licensed pursuant to chapter 463, an independent nurse practitioner registered pursuant to s. 464.0125, or a podiatric

physician licensed pursuant to chapter 461, provided such practitioner holds a valid federal controlled substance registry number.

Section 23. Except as otherwise provided herein, this act shall take effect on July 1, 2014.