

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 27A Drug Prescription by Advanced Registered Nurse Practitioners & Physician Assistants
SPONSOR(S): Pigman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Committee	15 Y, 2 N	O'Callaghan	Calamas

SUMMARY ANALYSIS

Unlike all other states in the U.S., Florida does not allow advanced registered nurse practitioners (ARNPs) to prescribe controlled substances and is one of two states that do not allow physician assistants (PAs) to prescribe controlled substances.

The bill authorizes ARNPs to prescribe, dispense, order, and administer controlled substances, but only to the extent authorized under a supervising physician's protocol. The bill also authorizes PAs to prescribe controlled substances that are not listed on a formulary established by the Council on Physician Assistants. The bill subjects ARNPs and PAs to administrative disciplinary actions, such as fines or license suspensions, for violating certain practice standards relating to prescribing and dispensing controlled substances. The bill adds to the Nurse Practice Act specific prohibited acts related to the prescribing of controlled substances, which constitute grounds for denial of license or disciplinary action.

The bill requires ARNPs and PAs who prescribe controlled substances for the treatment of chronic nonmalignant pain to meet certain registration and prescribing requirements, and applies a current exception to such requirements to ARNPs and PAs. The bill also prohibits ARNPs and PAs from prescribing controlled substances in registered pain-management clinics.

The bill adds ARNPs and PAs to the definition of "practitioner" in the Florida Comprehensive Drug Abuse Prevention and Control Act (Act), requiring them to comply with the prescribing and dispensing requirements and limitations under the Act.

The bill makes conforming changes to several statutes to recognize ARNPs and PAs as prescribers of controlled substances. The amended statutes relate to pilot licensure, criminal probation, and the state employees' prescription drug program.

The bill also states the effect of the act, if enacted, on any of the same laws amended during the 2015 Regular Session of the Legislature.

The bill has an insignificant negative fiscal impact on the Department of Health and no fiscal impact on local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Physician Assistants

Regulation and Licensure

Under Florida law, PAs are licensed under s. 458.347, F.S., the Medical Practice Act, or s. 459.022, F.S., the Osteopathic Medical Practice Act, and are regulated by the Board of Medicine or the Board of Osteopathic Medicine, respectively, in conjunction with the Florida Council on Physician Assistants (Council). Currently, there are 6,684 in-state, and 818 out-of-state, active licensed PAs.¹

An applicant for a PA license must apply to the Department of Health (Department). The Department must issue a license to a person who the Council has certified is at least 18 years of age and has:

- Satisfactorily passed a proficiency examination with an acceptable score established by the National Commission on Certification of Physician Assistants;²
- Completed an application form and paid the \$100 application fee;³
- Obtained a certificate of completion from a PA training program, including certain course descriptions relating to pharmacotherapy if the PA applicant seeks prescribing authority;
- Provided a sworn statement of any felony convictions;
- Provided a sworn statement of any revocation or denial of licensure or certification in any state; and
- Provided two letters of recommendation.⁴

To renew a PA license, a PA must submit to the Department every two years:

- An application;
- A \$275 renewal fee;⁵ and
- Proof of completion of at least 100 hours of continuing medical education during the previous two years.⁶

Supervising Physician

A PA practices under the delegated authority of a supervising physician. A physician supervising a PA must be qualified in the medical area in which the PA is practicing and is responsible and liable for the performance, acts, and omissions of the PA.⁷ A physician may not supervise more than 4 currently licensed PAs at any one time.⁸

Florida law also limits the number of medical offices that a primary care physician may supervise when the physician is not onsite supervising PAs at those medical offices. Under such circumstances, the primary care physician may only supervise PAs in up to four medical offices, in addition to the physician's primary practice location. If the physician provides specialty health care services, then only

¹ Email correspondence from the Department of Health on May 28, 2015 (on file with committee staff).

² National Commission on Certification of Physician Assistants, *About PANCE (Physician Assistant National Certifying Exam)*, available at <https://www.nccpa.net/pance> (last visited May 19, 2015).

³ Rules 64B8-30.019 and 64B15-6.013, F.A.C.

⁴ Sections 458.347(7)(a) and 459.022(7)(a), F.S.

⁵ *Supra* FN 3.

⁶ Prescribing PAs must complete 10 hours of continuing medical education (CME) in each specialty of their supervising physician. These hours are included in general CME requirements. Rules 64B8-30.005(6) and 64B15-6.0035(6), F.A.C.

⁷ Sections 458.347(3) and 459.022(3), F.S.; and rules 64B8-30.012 and 64B15-6.010, F.A.C.

⁸ Sections 458.347(3) and 459.022(3), F.S.

two medical offices may be supervised in addition to the physician's primary practice location.⁹ However, the supervision limitations do not apply in:

- Hospitals;
- Colleges of medicine or nursing;
- Nonprofit family-planning clinics;
- Rural and federally qualified health centers;
- Nursing homes;
- Assisted living facilities;
- Student health care centers or school health clinics; and
- Other government facilities.¹⁰

"Responsible supervision" of a PA means the ability of the supervising physician to exercise control and provide direction over the services or tasks performed by the PA.¹¹ Whether the supervision of a PA is adequate is dependent upon the:

- Complexity of the task;
- Risk to the patient;
- Background, training and skill of the PA;
- Adequacy of the direction in terms of its form;
- Setting in which the tasks are performed;
- Availability of the supervising physician;
- Necessity for immediate attention; and
- Number of other persons that the supervising physician must supervise.¹²

The physician must base his or her decision to authorize the PA to perform a task or procedure under direct or indirect supervision¹³ on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. However, certain procedures, such as the routine insertion of chest tubes, removal of pacer wires, interpretation of certain tests, and administration of certain anesthetics, may not be performed under indirect supervision.¹⁴ The supervising physician is required to periodically review the PA's performance.¹⁵

Delegable Tasks

Unless specifically authorized by statute, a physician may not delegate to a PA the authority to prescribe, dispense, or compound medicinal drugs or make a final diagnosis.¹⁶

Pursuant to ss. 458.347(4)(e) and 459.022(4)(e), F.S., a supervisory physician may delegate to a PA the authority to prescribe or dispense any medication used in the supervising physician's practice, unless the medication is listed in an exclusionary formulary established by the Council.¹⁷ Sections 458.347(4)(g) and 459.022(4)(f), F.S., authorize a supervisory physician to delegate to a PA the

⁹ Sections 458.348(4) and 459.025(3), F.S.

¹⁰ Sections 458.348(4)(e) and 459.025(3)(e), F.S.

¹¹ Rules 64B8-30.001(3) and 64B15-6.001(3), F.A.C.

¹² *Id.*

¹³ Direct supervision refers to the physical presence of the supervising physician on the premises so that the physician is immediately available to the PA when needed. Indirect supervision refers to the easy availability of the physician to the PA, including the ability to communicate by telecommunication, but the supervising physician must be within reasonable physical proximity to the PA. Rules 64B8-30.001(4), (5), and 64B15-6.001(4),(5), F.A.C.

¹⁴ Rules 64B8-30.012 and 64B15-6.010(2), F.A.C.

¹⁵ Rules 64B8-30.001(3), and 64B15-6.001(3), F.A.C.

¹⁶ Rules 64B8-30.012(2)(a) and 64B15-6.010, F.A.C.

¹⁷ Section 458.347(4)(f)1., F.S., directs the Council to establish a formulary listing the medical drugs that a PA may not prescribe.

Currently, the formulary prohibits PAs from prescribing controlled substances, as defined in ch. 893, F.S.; general, spinal, or epidural anesthetics; and radiographic contrast materials. Rules 64B8-30.008 and 64B15-6.0038, F.A.C.

authority to order medications for the physician's patient during the patient's care in a facility licensed under ch. 395, F.S.¹⁸

Advanced Registered Nurse Practitioners

Regulation and Licensure

In Florida, advanced registered nurse practitioners (ARNPs) are categorized as certified nurse practitioners, certified nurse midwives, or certified registered nurse anesthetists.¹⁹ ARNPs practice advanced or specialized nursing, which is defined in law as advanced-level nursing acts approved by the Board of Nursing (Board) as appropriate for ARNPs to perform based on their specialized education, training, and experience.²⁰ Advanced or specialized nursing practices include professional nursing practices that registered nurses are authorized to perform. Advanced or specialized nursing acts may only be performed if authorized under a supervising physician's written protocol.²¹ Currently, there are 18,011 in-state, and 2,572 out-of-state, active licensed ARNPs.²²

ARNPs are regulated under part I of ch. 464, F.S., the Nurse Practice Act. The Board, established under s. 464.004, F.S., provides the eligibility criteria for applicants to be certified as ARNPs and the applicable regulatory standards for ARNP nursing practices. For an applicant to be eligible to be certified as an ARNP, the applicant must:

- Have a registered nurse license;
- Have earned, at least, a master's degree; and
- Submit to the Board proof of a current national advanced practice certification from a board-approved nursing specialty board.²³

Pursuant to s. 456.048, F.S., all ARNPs must carry malpractice insurance or demonstrate proof of financial responsibility. An applicant for certification is required to submit proof of coverage or financial responsibility within sixty days of certification and before each biennial renewal. An ARNP must have professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000, or an unexpired irrevocable letter of credit, which is payable to the ARNP as the beneficiary, in the amount of at least \$100,000 per claim with a minimum aggregate availability of at least \$300,000.²⁴

Supervising Physician

Just as for PAs, Florida law limits the number of medical offices that a primary care physician may supervise when the physician is not onsite supervising ARNPs at those medical offices.²⁵ Also, to ensure appropriate medical care, the Board may limit the number of ARNPs a physician may supervise based on the following factors:

- Risk to the patient;
- Educational preparation, specialty, and experience in relation to the supervising physician's protocol;

¹⁸ In 2013, ss. 458.347 and 459.022, F.S., were amended to clarify that a PA is authorized to order controlled substances in certain health care settings under the direction of the supervisory physician and that an order, under such circumstances, is not considered a prescription. Section 2, ch. 2013-127, L.O.F.

¹⁹ Section 464.012(4), F.S.

²⁰ Section 464.003(2), F.S.

²¹ The written protocol must be filed with the Board of Nursing, and allopathic and osteopathic physicians are also required to provide notice of the written protocol and the supervisory relationship to the Board of Medicine or Board of Osteopathic Medicine, respectively. Sections 464.012, 458.348, and 459.025, F.S.

²² Email correspondence from the Department of Health on May 28, 2015 (on file with committee staff).

²³ A nursing specialty board must attest to the competency of nurses in a clinical specialty area, require nurses to take a written examination prior to certification, require nurses to complete a formal program prior to eligibility of examination, maintain program accreditation, and identify standards or scope of practice statements appropriate for each nursing specialty. Section 464.012(1), F.S., and rule 64B9-4.002, F.A.C.

²⁴ Rule 64B9-4.002(5), F.A.C.

²⁵ *Supra* FNs 9 and 10.

- Complexity and risk of the procedures;
- Practice setting; and
- Availability of the supervising physician or dentist.²⁶

Delegable Tasks

Within the framework of a written physician protocol, an ARNP may:

- Monitor and alter drug therapies;
- Initiate appropriate therapies for certain conditions;
- Order diagnostic tests and physical and occupational therapy;
- Perform certain acts within his or her specialty;
- Perform medical acts authorized by a joint committee,²⁷ and
- Perform additional functions determined by rule.²⁸

Section 464.012(4), F.S., authorizes certified registered nurse anesthetists, certified nurse midwives, and certified nurse practitioners to perform additional acts within their specialty if authorized under a supervisory physician protocol.

Florida law does not authorize ARNPs to prescribe, administer,²⁹ or dispense controlled substances.³⁰

Controlled Substances

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act (Act), which classifies controlled substances into the following five categories, known as schedules, by their differing potential for abuse:

- *Schedule I* drugs have a high potential for abuse and have no currently accepted medical use in treatment in the United States, and their use under medical supervision does not meet accepted safety standards.
- *Schedule II* drugs have a high potential for abuse and have a currently accepted, but severely restricted, medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- *Schedule III* drugs have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence, high psychological dependence, or, in the case of anabolic steroids, physical damage.
- *Schedule IV* drugs have a low potential for abuse relative to the substances in Schedule III and have a currently accepted medical use in treatment in the United States, and abuse of these substances may lead to limited physical or psychological dependence relative to the substances in Schedule III.
- *Schedule V* drugs have a low potential for abuse relative to the substances in Schedule IV and have a currently accepted medical use in treatment in the United States, and abuse of such drugs may lead to limited physical or psychological dependence relative to the substances in Schedule IV.³¹

²⁶ Rule 64B9-4.010, F.A.C.

²⁷ Section 464.003(2), F.S., authorizes a joint committee, composed of three Board of Nursing appointees, three Board of Medicine appointees, and the State Surgeon General or his or her designee, to identify and approve acts of medical diagnosis and treatment, prescription, and operation that may be performed by ARNPs. The Board of Nursing is required to adopt rules authorizing the acts approved by the joint committee.

²⁸ Section 464.012(3), F.S.

²⁹ However, s. 893.05(1), F.S., allows ARNPs to administer a controlled substance if administered under the physician's direction and supervision.

³⁰ Section 893.02(21), F.S., excludes ARNPs from the definition of "practitioner" under the Comprehensive Drug Abuse Prevention and Control Act (Act). The Act authorizes only a practitioner, in good faith and in the course of his or her professional practice, to prescribe, administer, dispense, mix, or otherwise prepare a controlled substance. Section 893.05(1), F.S.

³¹ Section 893.03, F.S. See also, Drug Enforcement Administration, Office of Diversion Control, *Controlled Substance Schedules*, available at www.deadiversion.usdoj.gov/21cfr/cfr/2108cfr.htm (last visited May 19, 2015).

The Act defines “prescription” as an order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medicinal supplies, issued in good faith and in the course of professional practice, intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so.³² The Act provides requirements for the prescribing and administering of controlled substances by health care practitioners and proper dispensing by pharmacists and health care practitioners.³³

Controlled Substance Prescribing for Nonmalignant Pain in Florida

As of January 1, 2012, every physician, podiatrist, or dentist who prescribes controlled substances in the state for the treatment of chronic nonmalignant pain³⁴ must register as a controlled substance prescribing practitioner and comply with certain practice standards specified in statute.³⁵ Before prescribing controlled substances for the treatment of chronic nonmalignant pain, a practitioner must:

- Conduct a complete medical history and physical examination of the patient and document such in the patient’s medical record;
- Develop a written individualized treatment plan for each patient, which must include objectives to determine treatment success;
- Discuss with the patient the risks and benefits of the use of controlled substance; and
- Enter into a controlled substance agreement with each patient that must be signed by the patient or their legal representative and by the prescribing practitioner. Such agreements must include:
 - The number and frequency of permitted prescriptions and refills;
 - A statement of reasons for discontinuation of therapy, including violation of the agreement; and
 - The requirement that a patient’s chronic nonmalignant pain only be treated by one practitioner at a time unless otherwise authorized and documented.³⁶

These prescribing practitioners must see their patients at least once every 3 months to monitor progress and compliance, and must maintain detailed medical records relating to such treatment. Patients at special risk for drug abuse or diversion may require co-monitoring by an addiction medicine physician or a psychiatrist. Anyone with signs or symptoms of substance abuse must be immediately referred to a pain-management physician, an addiction medicine specialist, or an addiction medicine facility.³⁷

³² The definition also includes protocol for out-of-state, licensed practitioners who are prescribing in Florida, pharmacist prescription verification, and prescription blank requirements for controlled substances. Section 893.02(22), F.S.

³³ Sections 893.04, F.S., and 893.05, F.S.

³⁴ “Chronic nonmalignant pain” is defined as pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery. Section 456.44(1)(e), F.S.

³⁵ Section 456.44(2), F.S.

³⁶ Section 456.44(3), F.S.

³⁷ *Id.*

Drug Enforcement Administration

The Drug Enforcement Administration (DEA), housed within the U.S. Department of Justice, enforces the controlled substance laws and regulations of the United States, including preventing and investigating the diversion of controlled substances.³⁸

Any health care professional wishing to prescribe controlled substances must apply for a registration number from the DEA. Registration numbers are linked to state licenses and may be suspended or revoked upon any disciplinary action taken against a licensee.³⁹ The DEA will grant registration numbers to a wide range of health care professionals, including physicians, nurse practitioners, physician assistants, optometrists, dentists, and veterinarians, but such professionals may only prescribe controlled substances as authorized under state law. The DEA provides that a controlled substance prescription may only be issued by a registered practitioner who is:

- Authorized to prescribe controlled substances by the jurisdiction in which the practitioner is licensed to practice; and
- Registered with the DEA, or exempt from registration (e.g., Public Health Service, Federal Bureau of Prisons, military practitioners); or
- An agent or employee of a hospital or other institution acting in the normal course of business or employment under the DEA registration number of the hospital or other institution which is registered in lieu of the individual practitioner being registered.⁴⁰

The DEA's Practitioner Manual includes requirements for valid prescriptions. The DEA defines "prescription" as an order for medication which is dispensed to or for an ultimate user, but is not an order for a medication dispensed for immediate administration to the user, such as an order to dispense a drug to a patient in a hospital setting.⁴¹

Other States' Controlled Substance Prescribing Authority for ARNPs and PAs

ARNPs

An ARNP's ability to prescribe, dispense, or administer controlled substances depends on the state law under which the ARNP is licensed. Forty-nine states authorize ARNPs to prescribe controlled substances and 18 of those states authorize an ARNP to prescribe controlled substances to a patient without physician supervision.⁴² Twenty-two states specifically prohibit certified registered nurse anesthetists from prescribing controlled substances.⁴³

Some states have specific limitations regarding ARNPs' prescribing authority of controlled substances, especially for Schedule II controlled substances.⁴⁴ For example, Alabama, Arkansas, Georgia, Missouri, and South Carolina prohibit ARNPs from prescribing Schedule II controlled substances, while other states, such as Illinois, Kentucky, Michigan, North Carolina, Ohio, South Dakota, Tennessee, and Texas, limit the amount of Schedule II controlled substances ARNPs may prescribe. Some states require ARNPs to complete additional training or education, or require ARNPs to register with the applicable regulatory board, to prescribe controlled substances. Some states specify which controlled substances ARNPs may or may not prescribe in a formulary.⁴⁵

³⁸ Drug Enforcement Administration, *About Us*, available at <http://www.deadiversion.usdoj.gov/Inside.html> (last visited May 19, 2015).

³⁹ Registration numbers must be renewed every three years. Drug Enforcement Administration, *Practitioner's Manual- Section II*, available at <http://www.deadiversion.usdoj.gov/pubs/manuals/pract/section2.htm> (last visited May 19, 2015).

⁴⁰ *Id.*

⁴¹ Drug Enforcement Administration, *Practitioner's Manual-Section V*, available at <http://www.deadiversion.usdoj.gov/pubs/manuals/pract/section5.htm> (last visited May 19, 2015).

⁴² Findings based on research conducted during 2013-2015 by professional staff of the Health and Human Services Committee.

⁴³ American Association of Nurse Anesthetists, *AANA Journal*, June 2011; 79(3):235, on file with committee staff.

⁴⁴ *Supra* FN 42. See also, Drug Enforcement Administration, *Mid-Level Practitioners Authorization by State*, available at <http://www.deadiversion.usdoj.gov/drugreg/practioners/> (last visited May 19, 2015).

⁴⁵ *Supra* FN 42.

A PA's ability to prescribe, dispense, order, or administer controlled substances is dependent on the state law under which the PA is licensed. Forty-eight states authorize PAs to prescribe controlled substances under the supervision of a physician, but each state varies as to certain limitations placed on that authority.⁴⁶ Several of those states have specific restrictions on PAs' prescribing authority for Schedule II controlled substances. For example, Texas authorizes PAs to prescribe or order Schedule II controlled substances only in a hospital or hospice setting⁴⁷ and Illinois, Montana, Pennsylvania, and South Dakota limit the amount of Schedule II controlled substances that a PA may prescribe.⁴⁸ Seven states authorize PAs to prescribe only Schedules III-V.⁴⁹ Some states identify the controlled substances PAs may or may not prescribe in a formulary.⁵⁰

Effect of Proposed Changes

The bill authorizes PAs licensed under ch. 458, F.S., the Medical Practice Act or under ch. 459, F.S., the Osteopathic Medical Practice Act, and ARNPs certified under part I of ch. 464, F.S., the Nurse Practice Act, to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs.

Physician Assistants

The bill authorizes PAs to prescribe controlled substances by removing the requirement that controlled substances be included in an exclusionary formulary created by the Council pursuant to s. 458.347(4)(f)1., F.S.⁵¹ However, the Council will continue to have the discretion to add medicinal drugs, including controlled substances, to the exclusionary formulary.

The bill reenacts ss. 458.347(7)(g) and 459.022(7)(f), F.S., to subject PAs to administrative disciplinary actions, such as fines of \$10,000 or more per count or license suspensions for 6 months or longer, for violating standards of practice in law relating to prescribing and dispensing controlled substances.⁵²

Advanced Registered Nurse Practitioners

The bill authorizes ARNPs, regulated under s. 464.012(3), F.S., to prescribe, dispense, order, or administer controlled substances, if allowed under a supervising physician's protocol. The bill adds prohibited acts related to the prescribing of controlled substances by ARNPs to s. 464.018, F.S., which, if performed, constitute grounds for denial of license or disciplinary actions.

Section 456.072(7), F.S., is amended to include disciplinary actions against ARNPs, including fines of \$10,000 or more per count and a 6 months or longer license suspension, for prescribing or dispensing a controlled substance other than in the course of professional practice or for failing to meet practice standards.

Controlled Substances

The bill adds PAs and ARNPs to the definition of "practitioner" in ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act (Act), to require these practitioners to comply

⁴⁶ Every state, except Florida and Kentucky, has some form of controlled substance prescriptive authority for PAs. *Supra* FN 44.

⁴⁷ *Supra* FN 44.

⁴⁸ American Academy of Physician Assistants, *PA Prescribing Authority by State*, available at <http://webcache.googleusercontent.com/search?q=cache:Hf18JZF6nXQJ:https://www.aapa.org/WorkArea/DownloadAsset.aspx%3Fid%3D2453+&cd=1&hl=en&ct=clnk&gl=us> (last visited May 29, 2015).

⁴⁹ *Supra* FN 44.

⁵⁰ *Supra* FN 48.

⁵¹ Section 459.022(4)(e), F.S., of the Osteopathic Medical Practice Act refers to the formulary in the Medical Practice Act.

⁵² Sections 458.347(7)(g) and 459.022(7)(f), F.S., state that the Board of Medicine or the Board of Osteopathic Medicine, respectively, may impose any penalty authorized under ss. 456.072, 458.332(2), and 459.015(2), F.S., upon a PA if the PA or the supervising physician has been found guilty of any prohibited acts.

with the prescribing and dispensing requirements and limitations under the Act. This definition also requires practitioners to hold a valid federal DEA controlled substance registry number.

The bill amends s. 456.44, F.S., to require a PA or ARNP, who prescribes any controlled substance that is listed in Schedule II, Schedule III, or Schedule IV for the treatment of chronic nonmalignant pain, to register himself or herself as a controlled substance prescribing practitioner on his or her practitioner profile maintained by the Department and to meet other statutory requirements for such registrants.⁵³ The bill extends an existing registration exemption for physicians, who prescribe medically necessary controlled substances for a patient during an inpatient stay in a hospital, to PAs and ARNPs prescribing controlled substances under such circumstances.

The bill amends sections of law regulating pain-management clinics under the Medical Practice Act and the Osteopathic Medical Practice Act to only authorize physicians licensed under such acts, to prescribe controlled substances in a pain-management clinic. Accordingly, PAs and ARNPs are prohibited from prescribing controlled substances in pain-management clinics.

The bill makes several conforming changes to various statutes, including reenacting several sections of law, to recognize the new prescribing authority for PAs and ARNPs.

The bill includes a clause stating the effect of the act. It provides that if any law amended by this act was also amended by a law enacted during the 2015 Regular Session of the Legislature, those laws must be construed as if they were enacted during the same session, and full effect must be given to each if possible.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 110.12315, F.S., relating to the prescription drug program.

Section 2: Amends s. 310.071, F.S., relating to deputy pilot certification.

Section 3: Amends s. 310.073, F.S., relating to state pilot licensing.

Section 4: Amends s. 310.081, F.S., relating to the department to examine and license state pilots and certificate deputy pilots; vacancies.

Section 5: Amends s. 456.072, F.S., relating to grounds for discipline; penalties; enforcement.

Section 6: Amends s. 456.44, F.S., relating to controlled substance prescribing.

Section 7: Amends s. 458.3265, F.S., relating to pain-management clinics.

Section 8: Amends s. 458.347, F.S., relating to physician assistants.

Section 9: Amends s. 459.0137, F.S., relating to pain-management clinics.

Section 10: Amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners.

Section 11: Amends s. 464.018, F.S., relating to disciplinary actions.

Section 12: Amends s. 893.02, F.S., relating to definitions.

Section 13: Amends s. 948.03, F.S., relating to the terms and conditions of probation.

Section 14: Reenacts s. 310.071(3), F.S., relating to deputy pilot certification.

Section 15: Reenacts ss. 458.331(10), F.S., relating to grounds for disciplinary action; action by the board and department; 458.347(7)(g), F.S., relating to physician assistants; 459.015(10), F.S., relating to relating to grounds for disciplinary action; action by the board and department; 459.022(7)(f), F.S., relating to physician assistants; and 465.0158(5)(b), F.S., relating to nonresident sterile compounding permit.

Section 16: Reenacts ss. 456.072(1)(mm), F.S., relating to grounds for discipline; penalties; enforcement; and 466.02751, F.S., relating to the establishment of practitioner profile for designation as a controlled substance prescribing practitioner.

Section 17: Reenacts ss. 458.303, F.S., relating to provisions not applicable to other practitioners exceptions, etc.; 458.347(4)(e) and (9)(c), F.S., relating to physician assistants;

⁵³ Currently, PAs do not have practitioner profiles. Practitioner profiles contain information about a practitioner's education, training, and practice and are accessible to the public. If the bill is enacted, the Department will need to develop a profile for PAs. Florida Department of Health, 2015 Agency Legislative Bill Analysis for HB 27A, May 26, 2015, on file with committee staff.

458.3475(7)(b), F.S., relating to anesthesiologist assistants; 459.022(4)(e) and (9)(c), F.S., relating to physician assistants; and 459.023(7)(b), F.S., relating to anesthesiologist assistants.

Section 18: Reenacts ss. 456.041(1)(a), F.S., relating to the practitioner profile; creation; 458.348(1) and (2), F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards; and 459.025(1), F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards.

Section 19: Reenacts ss. 464.008(2), F.S., relating to licensure by examination; 464.009(5), F.S., relating to licensure by endorsement; 464.018(2), F.S., relating to disciplinary actions; and 464.0205(1)(b), (3), and (4)(b), F.S., relating to retired volunteer nurse certificate.

Section 20: Reenacts s. 775.051, F.S., relating to voluntary intoxication; not a defense; evidence not admissible for certain purposes; exception.

Section 21: Reenacts ss. 944.17(3)(a), F.S., relating to commitments and classification; transfers; 948.001(8), F.S., relating to definitions; and 948.101(1)(e), F.S., relating to terms and conditions of community control.

Section 22: Provides the effect of the act on the same laws amended during the 2015 Regular Session of the Legislature.

Section 23: 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:

The bill has an insignificant negative fiscal impact on the Department of Health associated with rulemaking, creating practitioner profiles for PAs, and potentially addressing additional practitioner complaints and investigations. Additionally, the Department estimates it will incur a recurring increase in costs of approximately \$3,010 associated with PA profile notification postcards. The Department reports that it has sufficient current resources to absorb the aforementioned costs.⁵⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Patients may see reduced health care costs and efficiencies in health care delivery as a result of having their health care needs addressed directly by a PA or ARNP, who may prescribe a needed controlled substance for treatment. Any such impacts are indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁵⁴ *Id.*

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:

The Board of Nursing, Board of Medicine, Board of Osteopathic Medicine, the Department of Health, and the Department of Management Services have sufficient rule-making authority to implement the provisions of the bill.⁵⁵

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁵⁵ *Id.*