

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 375 Physician Assistants
SPONSOR(S): Health Care Appropriations Subcommittee; Steube
TIED BILLS: **IDEN./SIM. BILLS:** SB 748

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|---------------------|---------|--|
| 1) Health Quality Subcommittee | 11 Y, 0 N | Siples | O'Callaghan |
| 2) Health Care Appropriations Subcommittee | 12 Y, 0 N, As CS | Garner | Pridgeon |
| 3) Health & Human Services Committee | 14 Y, 0 N | Siples | Calamas |

SUMMARY ANALYSIS

A physician assistant (PA) is a person licensed to perform health care services delegated by a supervising physician, in the specialty areas in which he or she has been trained. PAs are governed by the respective physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs). A physician may supervise up to four PAs and is responsible and liable for the performance and the acts and omissions of the PA. Upon submission of required paperwork to the Department of Health (DOH), a supervising physician may delegate the authority to prescribe or dispense medicinal drugs used in the supervisory physician's practice to a PA.

The bill requires a PA to have a supervising physician, or designated supervising physician in a practice with multiple supervisory physicians. The PA must notify the DOH of changes in the supervising physician within 30 days after the change. The requirement to have a designated supervising physician does not prevent a PA from practicing under multiple supervising physicians. The designated supervising physician must maintain a current list of all supervising physicians within the practice or facility.

The bill expressly authorizes a PA to perform any duties or services he or she has been delegated by a supervising physician unless such duties or services are expressly prohibited by a statute or rule.

The bill amends chapters 458 and 459, F.S., to streamline the requirements for PA licensure by allowing the applicant to submit an acknowledgement of prior felony convictions and disciplinary action taken against a license from another state, rather than submitting a sworn statement attesting to such information. The bill also repeals a requirement that a PA licensure applicant submit two letters of recommendation.

Currently, all PA licensure applicants must successfully pass an examination offered by the National Commission on Certification of Physician Assistants prior to being licensed. The bill deletes obsolete provisions relating to a licensure examination administered by the DOH for certain foreign-trained PA licensure applicants. The bill also repeals a provision that allows the DOH to issue temporary licenses to PA licensure applicants awaiting the results of the DOH-administered examination.

The bill allows a PA with prescribing authority to acknowledge completion of the required continuing medical education hours, rather than submitting a signed affidavit attesting to the completion of the requirement at the time of license renewal. The bill allows a PA's prescriptions to be in written or electronic form, as long as they are in compliance with prescription labeling information requirements.

The bill has an insignificant, indeterminate, negative fiscal impact on the DOH. The agency's current resources can absorb any additional workload.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Physician Assistants

A physician assistant (PA) is an individual who has completed an approved medical training program and is licensed to perform medical services as delegated by a supervising physician.¹ Currently, there are 7,987 PAs who hold active licenses in Florida.²

Licensure

PA licensure is governed by ss. 458.347(7) and 459.022(7), F.S. The Department of Health (DOH) licenses PAs and the Florida Council on Physician Assistants (Council) regulates them.³ PAs are also regulated by either the Florida Board of Medicine for PAs licensed under ch. 458, F.S., or the Florida Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S.

To become licensed as a PA in Florida, an applicant must demonstrate to the Council that he or she has met the following requirements:⁴

- Satisfactory passage of the National Commission on Certification of Physician Assistant exam;
- Completion of the application and remittance of the application fee;⁵
- Completion of an approved PA training program;
- Submission of a sworn statement of any prior felony convictions;
- Submission of a sworn statement of any previous revocation or denial of licensure in any state;
- Submission of two letters of recommendation; and
- If the applicant wishes to apply for prescribing authority, submission of a copy of course transcripts and a copy of the course description from a PA training program describing the course content in pharmacotherapy.

Licenses are renewed biennially.⁶ At the time of renewal, a PA must demonstrate that he or she has met the continuing medical education requirements and must submit a sworn statement that he or she has not been convicted of any felony in the previous two years.⁷

Supervision of PAs

A PA may only practice under the supervision of a medical doctor or a doctor of osteopathic medicine with whom they have a clinical relationship. A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice.⁸ Supervision is defined as responsible supervision and control that requires the easy availability or physical presence of the licensed physician for consultation and direction of the PA.⁹ In providing supervision, the

¹ Sections 458.347(2)(e), F.S. and 459.022(2)(e), F.S.

² Email correspondence with the Department of Health, Medical Quality Assurance staff on November 9, 2015. The number of active licensed PAs include both in-state and out-of-state licensees, as of November 9, 2015.

³ The council consists of three physicians who are members of the Board of Medicine; one member who is a member of the Board of Osteopathic Medicine, and a physician assistant appointed by the State Surgeon General. (Sections 458.347(9) and 459.022(8), F.S.)

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

⁵ The application fee is \$100 and the initial license fee is \$200. Applicants must also pay an unlicensed activity fee of \$5. See Rules 64B8-30.019 and 64B15-6.013, F.A.C.

⁶ For timely renewed licenses, the renewal fee is \$275 and the prescribing registration is \$150. Additionally, at the time of renewal, the PA must pay an unlicensed activity fee of \$5. See Rules 64B8-30.019 and 64B15-6.013, F.A.C.

⁷ Sections 458.347(7)(c)-(d) and 459.022(7)(c)-(d), F.S.

⁸ Rules 64B8-30.012 and 64B15-6.010, F.A.C.

⁹ Sections 458.347(2)(f) and 459.022(2)(f), F.S.

supervising physician is required to periodically review the PA's performance.¹⁰ A physician may not supervise more than four PAs at any time.¹¹

The Board of Medicine and the Osteopathic Board have prescribed by rule what constitutes adequate responsible supervision. Responsible supervision is the ability of the supervising physician to reasonably exercise control and provide direction over the services or tasks performed by the PA.¹² In determining whether supervision is adequate, the following factors must be considered:¹³

- The complexity of the task;
- The risk to the patient;
- The background, training, and skill of the PA;
- The adequacy of the manner in which direction is provided;
- The setting in which the tasks are performed;
- The availability of the supervising physician;
- The necessity for immediate attention; and
- The number of other persons that the supervising physician must supervise.

Under current regulations, a physician may decide, based on his or her reasonable medical judgment regarding the probability of morbidity to the patient, whether to supervise a PA directly or indirectly in the performance of a task or procedure.¹⁴ The supervising physician must be certain that the PA has the knowledge and skill to perform the tasks and procedures assigned. A physician or a group of physicians supervising PAs are individually or collectively liable for the performance of the acts and omissions of the PA.¹⁵

Scope of Practice

PAs are regulated through the respective physician practice acts.¹⁶ The Board of Medicine and the Osteopathic Board have adopted rules that set out the general principles a supervising physician must use in the development of the scope of practice of a PA under both direct and indirect supervision.¹⁷ A physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice.¹⁸

Rules of both the Board of Medicine and the Osteopathic Board prohibit the delegation of prescribing, dispensing, or compounding of medicinal drugs, or final diagnosis, except as authorized by statute.¹⁹ Current law allows a supervising physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.²⁰ A supervising physician is prohibited from delegating certain duties under indirect supervision, such as the insertion chest tubes, cardiac stress testing, insertion of central venous catheters, interpretation of laboratory tests, X-rays, and EKGs, and the administration of certain anesthetics.²¹

¹⁰ Rules 64B8-30.001(3) and 64B15-6.001(3), F.A.C.

¹¹ Sections 458.347(3) and 459.022(3), F.S.

¹² *Supra* note 10.

¹³ *Id.*

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

¹⁵ Sections 458.347(3) and 459.022(3), F.S.

¹⁶ Chapters 458 and 459, F.S.

¹⁷ Sections 458.347(4) and 459.022(4), F.S.

¹⁸ Rules 64B8-30.012(1) and 64B15-6.010(1), F.A.C. The term "scope of practice" refers to those tasks and procedures which the supervision physician is qualified by training or experience to perform.

¹⁹ *Supra* note 14.

²⁰ Sections 458.347(4)(e) and (f)1. and 459.022(4)(e), F.S. However, a PA is allowed to order medications for the supervisory physician's patient during his or her care in a facility under ch. 395, F.S., such as hospitals. (See ss. 458.347(4)(g) and 459.022(4)(f), F.S.).

²¹ *Supra* note 14.

In regulating the practice of PAs, it is the duty of the Board of Medicine and the Osteopathic Board to make disciplinary decisions concerning whether a doctor or PA has violated the provisions of his or her practice act.²²

Effect of Proposed Changes

Licensure

The bill amends the documentation that a PA must provide at the time of his or her initial application for licensure. Currently, an applicant for a PA license must submit sworn statements of any prior felony convictions and any previous revocation or denial of licensure or certification in any state; however, the bill changes the requirement to acknowledgements of such actions.²³ The bill also removes the requirement that a PA applicant submit two letters of recommendation at the time of application. Repealing this requirement will expedite the licensure process.²⁴

For license renewals, current law requires a PA to submit a signed affidavit attesting that he or she has completed at least 10 hours of continuing education in the specialty practice in which he or she will have prescriptive privileges.²⁵ The bill requires that a PA acknowledge that he or she has met the required continuing education rather than submit a signed affidavit.

The bill repeals an obsolete provision that requires the DOH to administer a written, objective examination to certain PA licensure applicants, such as foreign-trained physicians who are not licensed to practice medicine. Eligibility to take the DOH-administered exam was limited to individuals who initially applied for licensure between July 1, 1990, and June 30, 1991. The DOH was limited to administering the examination five times. The DOH no longer administers a PA licensure examination.²⁶ The bill also repeals a provision that allows the DOH to grant temporary licenses to individuals who were awaiting scores from this licensure examination. The DOH has not issued a temporary license under this provision since 1998.²⁷ Under current law, an applicant must satisfactorily pass a proficiency exam administered by the National Commission on Certification of Physician Assistants.²⁸ All PA licensure applicants will be subject to the same licensure examination.

Supervision of PAs

Under current law, a PA must notify the DOH of his or her employment and the name of the supervising, within 30 days of commencing such employment or at any time his or her employment changes. The bill clarifies that the PA must report, within 30 days, the name of any new supervising physician or designated supervising physician. The bill defines “designated supervising physician” as a physician designated by the facility or practice to be the primary contact and supervising physician for the PAs in the practice where PAs are supervised by multiple supervising physicians. The requirement to have a designated supervising physician does not prevent a PA from practicing under multiple supervising physicians.

The designated supervising physician must maintain a list of all approved supervising physicians at the practice or facility, which includes each supervising physician’s name and area of practice. This list must be kept current and must be available upon request by the DOH.

²² Sections 458.347(12) and 459.022(12), F.S.

²³ Pursuant to s. 456.0135, F.S., all practitioners licensed under ch. 458 and 459, including PAs, are subject to a background screening and retention of fingerprints.

²⁴ Florida Dep’t of Health, *Bill Analysis of House Bill 375* (Oct. 27, 2015) (on file with the Health Quality Subcommittee).

²⁵ Sections 458.347(4)(e) 3. and 459.022(4)(e)3., F.S.

²⁶ *Supra* note 24.

²⁷ Email correspondence with the Department of Health, Medical Quality Assurance staff on November 17, 2015.

²⁸ *See* ss. 458.347(7)(a)2. and 459.022(7)(a)2., F.S.

Scope of Practice

The bill clarifies that a PA may perform any duty or service delegated by a supervising physician unless the PA is expressly prohibited by statute or rule from providing such duty or service. This provision delineates the scope of practice of a PA while providing that there may be express limitations on the scope under the practice acts and board rules.²⁹

The bill allows a PA's prescriptions to be in written or electronic form, as long as they comply with prescription labeling information requirements.³⁰

The bill provides an effective date of July 1, 2016.

B. SECTION DIRECTORY:

Section 1. Amends s. 458.347, F.S., relating to physician assistants.

Section 2. Amends s. 459.022, F.S., relating to physician assistants.

Section 3. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DOH indicates that it may experience a recurring increase in workload associated with additional complaints and investigations that may occur due to the new requirements created under the provisions of the bill. Although indeterminate at this time, current resources are adequate to absorb any fiscal impact.³¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

²⁹ *Supra* note 24.

³⁰ Section 456.0392(1), F.S., provides that a practitioner who does not have authority to prescribe control substance must list his or her name and professional license number on a prescription. Section 456.42(1), F.S., provides that a written prescription must be legibly printed or typed; contain the name of the prescribing practitioner; contain the name, strength, and quantity of the drug prescribed and directions for use; and dated and signed by the prescribing practitioner of the day of issue. Electronic prescriptions must contain the name of the prescribing practitioner, name, strength, and quantity of the drug prescribed and directions for use; and dated and signed by the prescribing practitioner only on the day issued.

³¹ *Supra* note 24.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Since the bill deletes the requirements for sworn statements or affidavits, to the extent that a PA incurs costs associated with obtaining such statements, the costs associated with applying for licensure or renewing licensure may be reduced.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 2, 2015, the Healthcare Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Required that a PA must acknowledge that he or she has met the required continuing education rather than certify; and
- Required that a PA must report, within 30 days, the name of any new a supervising physician, as well as any new “designated” supervising physician.

The analysis is drafted to the committee substitute as passed by the Health Care Appropriations Subcommittee.