

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 748

INTRODUCER: Health Policy Committee and Senator Flores

SUBJECT: Physician Assistants

DATE: December 2, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	<b>Fav/CS</b>
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 748 authorizes a Physician Assistant (PA) to perform services delegated by the supervising physician related to the PA's practice in accordance with his or her education and training unless expressly prohibited under ch. 458, ch. 459, F.S., or the rules adopted under the allopathic and osteopathic medical practice acts.

The bill creates and defines a "designated supervising physician." A "designated supervising physician" means a physician designated by a facility or practice to be the primary contact and supervising physician for the PAs in a practice where PAs are supervised by multiple supervising physicians. The bill streamlines a PA's reporting requirements to the Department of Health (DOH) with respect to multiple supervising physicians. The PA may report to DOH his or her designated supervising physician in lieu of the actual supervising physician(s), and the designated supervising physician will maintain a list of supervising physicians in the practice or facility. This list would be available to DOH upon written request.

The bill also clarifies that a PA, with delegated prescribing authority, may use prescriptions in both paper and electronic form. The bill deletes obsolete provisions relating to PA examinations by the DOH in favor of national proficiency examinations. It streamlines and simplifies the PA licensure and application process by eliminating the requirement for letters of recommendation and substituting acknowledgments for sworn statements that required notarization.

## II. Present Situation:

### Supervision of Physician Assistants

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of allopathic medicine by the Board of Medicine (BOM). Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine (BOOM). PAs are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.<sup>1</sup>

PAs are trained and required by statute to work under the supervision and control of allopathic physicians or osteopathic physicians.<sup>2</sup> The BOM and the BOOM have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct<sup>3</sup> and indirect<sup>4</sup> supervision. These principles are required to recognize the diversity of both specialty and practice settings in which PAs are used.”<sup>5</sup>

A supervising physician’s decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.<sup>6</sup> Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.<sup>7</sup>

The following duties are not permitted to be performed by a PA under indirect supervision:

- Routine insertion of chest tubes and removal of pacer wires or left atrial monitoring lines;
- Performance of a cardiac stress testing;
- Routine insertion of central venous catheters;
- Injection of intrathecal<sup>8</sup> medication without prior approval of the supervising physician;
- Interpretation of laboratory tests, X-ray studies and EKG’s without the supervising physician’s interpretation and final review;

<sup>1</sup> The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a PA appointed by the State Surgeon General. (*See* ss. 458.347(9) and 459.022(9), F.S.)

<sup>2</sup> Sections 458.347(4) and 459.022(4), F.S.

<sup>3</sup> “Direct supervision” requires the physician to be on the premises and immediately available. (*See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.)

<sup>4</sup> “Indirect supervision” refers to the easy availability of the supervising physician to the PA, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (*See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)

<sup>5</sup> Sections 458.347(4)(a) and 459.002(4)(a), F.S.

<sup>6</sup> Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

<sup>7</sup> Sections 458.347(3) and 459.022(3), F.S.

<sup>8</sup> Intrathecal means within a sheath; or through the theca of the spinal cord into the subarachnoid space. Miller-Keane Encyclopedia and Dictionary of Medicine, Nursing, and Allied Health, Seventh Edition. © 2003 by Saunders, an imprint of Elsevier, Inc. (last viewed Nov. 23, 2015) available at <http://medical-dictionary.thefreedictionary.com/intrathecal>.

- Administration of general, spinal, or epidural anesthetics; and then only by physician assistants who graduated from Board-approved programs for the education of anesthesiology assistants.<sup>9</sup>

Current law allows a supervising physician to delegate to a licensed PA the authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.<sup>10</sup>

A PA's licensure requirements are as follows:

- Is at least 18 years of age;
- Has graduated from an BOM or BOOM approved PA program<sup>11</sup> or its equivalent, or meets standards approved by the boards;
- Has passed a proficiency examination with an acceptable score established by the National Commission on Certification of Physician Assistants (NCCPA);
- Has completed the DOH application form<sup>12</sup> and remitted an application fee; and
- Has pass a criminal background check.

The PA application form requires among other things, two letters of recommendation and sworn statements that require notarization, pertaining to prior felony convictions and any previous revocation or denial of licensure or certification in any state.

Renewal of a PA's license is biennial and contingent upon completion of certain continuing medical education requirements. A PA with delegated prescribing authority must submit a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the PA has prescriptive privileges.<sup>13</sup>

Section 458.347(7)(b), F.S., contains obsolete provisions relating to PA examinations by the DOH. The DOH no longer administers a PA examination for licensure as s. 456.017(1)(c)2., F.S., prohibits a board or department to use state-developed written examinations if a national examination has been certified by the department. The current provision regarding foreign medical school trained unlicensed physicians who had not previously taken, or who had failed the NCCPA examination, but who had been certified by the BOM as having met the

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<sup>9</sup> Rules 64B8-30.012 and 64B15-6.010, F.A.C.

<sup>10</sup> Sections 458.347(4)(e) and (f)1. and 459.022(4)(e), F.S.

<sup>11</sup> The DOH, BOM and BOOM have delegated their responsibility to approve PA programs to the NCCPA who used the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) to accredit PA schools. The ARC-PA defines the standards for PA education and evaluating PA educational programs in the United States to ensure their compliance with those standards. The ARC-PA is an independent accrediting body and accredited programs located in institutions offering, associate, baccalaureate or master's degrees in conjunction with the PA credential awarded. See Accreditation Review Commission on Education for the Physician Assistants, Inc., available at <http://www.arc-pa.com/about/index.html> (last visited Nov. 6, 2015).

<sup>12</sup> The DOH PA licensure application must include: 1) a certificate of completion of a physician assistant training program specified in subsection (6); 2) a sworn statement of any prior felony convictions; 3) a sworn statement of any previous revocation or denial of licensure or certification in any state; 4) two letters of recommendation; and 5) a copy of course transcripts and a copy of the course description from the physician assistant's training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority. These documents must meet the evidence requirements for prescribing authority. Section 458.347(7)(a)(3), F.S.

<sup>13</sup> Sections 458.347(4)(e)3. and 459.022(4)(e)3., F.S.

requirements for licensure as a medical doctor by examination, was only available from July 1, 1990 through June 30, 1991. A temporary PA license was authorized and was valid until the receipt of passing scores from the examination of the NCCPA. Also, because there is no department administered examination, the time table for notice and administration of a department administered examination is now obsolete.<sup>14</sup>

All licensed PAs, as a condition of practice, must also, upon employment, or any subsequent change of employment, notify the DOH in writing,<sup>15</sup> within 30 days after starting, of the following:

- Complete mailing address of all current practice locations;
- Name and license number of all supervising physicians, including whether M.D. or D.O., specialty of supervising physician, and date supervision began.<sup>16</sup>

Additionally, any subsequent change in the supervising physician must be communicated in writing to the DOH within 30 days after the change.

Board rules<sup>17</sup> define a primary supervising physician as a physician licensed pursuant to ch. 458 or ch. 459, F.S., who assumes responsibility and legal liability for the services rendered by the PA at all times the PA is not under the supervision and control of an alternate supervising physician. An alternate supervising physician is defined as physician(s) licensed pursuant to ch. 458 or ch. 459, F.S., who assume responsibility and legal liability for the services rendered by the PA while the physician assistant is under his or her supervision and control. A physician may not supervise more than four licensed physician assistants at any one time.<sup>18</sup>

Section 458.347(4)5, F.S., and s. 459.022(e)5., F.S., dealing with delegated prescribing authority, allows for the use of prescriptions in written form only.

### **III. Effect of Proposed Changes:**

CS/SB 748 amends the virtually identical provisions relating to physician assistants (PAs) in both the Medical Practice Act, ch.458, F.S., and the Osteopathic Medical Practice Act, ch. 459, F.S.

#### **Affirmative Delegation Authority**

The CS/SB 748 authorizes a PA to perform services delegated by the supervising physician in the PA's practice in accordance with his or her education and training unless expressly prohibited under ch. 458, F.S., ch. 459, F.S., or rules adopted under either chapter. This additional language to s. 458.347, F.S., and s. 459.022, F.S., provides clearer expression of the practice authority a supervising physician may delegate to a PA, and may help avoid recurring

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<sup>14</sup> See the Florida Dep't of Health, *House Bill 375 Analysis*, p. 3 (Oct. 27, 2015) (on file with the Senate Committee on Health Policy).

<sup>15</sup> Florida Dep't of Health, Form DH-MQA 2004, *Supervision Data Form* (rev. Aug. 2010) available at [http://flboardofmedicine.gov/forms/frm\\_supervisiondata.pdf](http://flboardofmedicine.gov/forms/frm_supervisiondata.pdf) (last viewed Nov. 23, 2015).

<sup>16</sup> Sections 458.347(7)(e) and 459.022(7)(d), F.S., and Rules 64B15-6.003 and 64B8-30.003, F.A.C.

<sup>17</sup> Rules 64B8-30.001 and 64B15-6.001, F.A.C.

<sup>18</sup> Sections 458.347(3) and 459.022(3), F.S.

inquiries about whether a supervising physician may delegate to a PA various medical tasks that are not specifically authorized in statute to be delegated.<sup>19</sup>

### **Designated Supervising Physician**

CS/SB 748 amends s. 458.347(4)(e)5, F.S., and s. 459.002(4)(e)5., F.S., to create and define a new type of supervising physician for PAs, the “designated supervising physician”. The bill gives a PA a choice of whether to report his or her supervising physician(s), or the designated supervising physician, for employment by a facility or practice. If the PA chooses the option of reporting only the designated supervising physician, a PA would no longer be required to report changes in physicians who actually supervise the PA in a facility or practice within 30 days of the changes. Any changes to the designated supervising physicians must be reported to DOH within 30 days of the change. The bill may help a PA avoid disciplinary action for the failure to timely report a change in supervising physician.

It is unclear how the designated supervising physician’s role affects the roles of supervising physicians and alternate supervising physicians as established in rule. The addition of the designated supervising physician might hinder DOH’s current ability to readily identify physicians and PA supervisory relationships at a particular facility or practice at any given time. Current law limits the number of PAs a physician may supervise at one time to four.<sup>20, 21</sup> Under the bill, in order for the DOH to obtain that information, the DOH is required to make a written request to the facility’s or practice’s designated supervising physician for a list which is required to contain only the names of all supervising physicians, each supervising physician’s practice area, and be up to date with respect to additions and terminations of physicians. It does not require the designated supervising physician to include in the list which physicians supervised which PAs at what facility or practice location on a daily basis. There are also no sanctions in the bill for not maintaining the list, not keeping it up to date, or not providing it to the DOH in a timely manner. General disciplinary provisions in s. 458.072, F.S., and s. 459.015, F.S., however, might be applicable.

### **Form of Prescription**

CS/SB 748 amends s. 458.347(4)(e)5., F.S., and s. 459.022(4)(e)5., F.S., to clarify that a PA, with delegated prescribing authority, may use prescriptions in both paper and electronic form. The prescription must comply with provisions in s. 456.0392(1), F.S., s. 456.42(1), F.S., and ch. 499, which require identification of the PA, i.e., name and prescriber number, and other essential elements for dispensing such as name and address of the patient, name and strength of the drug, quantity prescribed, directions for use, date prescribed, and the prescriber’s signature.

### **Licensure Efficiencies**

CS/SB 748 amends s. 458.347(7)(a), F.S., and s.459.022(7)(a)., F.S., to streamline and simplify the PA licensure and application process by eliminating the requirement for two letters of recommendation and substituting acknowledgments for sworn statements that required

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<sup>19</sup> See for example: Op. Att’y Gen. Fla. 2008-21 (2008) – Baker Act – Physician Assistants.

<sup>20</sup> Section 458.347(3), F.S.

<sup>21</sup> Section 459.022(3), F.S.

notarization pertaining to continuing medical education, prior felony convictions, and certain regulatory actions for licensure or certification in any state.

The bill deletes obsolete provisions relating to PA examinations by the DOH in favor of national proficiency examinations. This language only appears in the Medical Practice Act in s. 458.347(7)(b), F.S.

#### **Effective Date**

The effective date of the bill is July 1, 2016.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Applicants for licensure as a PA, and PAs renewing their licenses, will experience reduced costs and time savings due to the administrative efficiencies.

Physician Assistants may also avoid disciplinary action for missing the filing deadlines, whether intentionally or unintentionally, when changes in supervising physicians occur.

C. Government Sector Impact:

The DOH and medical boards may experience fewer investigations and probable cause hearings with fewer complaints relating to PAs missing filing deadlines associated with changes in supervising physicians. Additional resources may be required to monitor responsibilities of the designated supervising physician. Any cost savings or increased costs is indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 458.347 and 459.022.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Health Policy on December 1, 2015:**

Clarifies that a PA may perform services that are delegated by the supervising physician in accordance with his or her education and training, unless expressly prohibited by law; clarifies that prescriptions may be in paper or electronic form; reinstates the requirement that prescriptions comply with ch. 499, F.S.; and removes the concept that designated supervising physicians must be approved.

**B. Amendments.**

None.