

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 973 Performance of Physician Assistants and Advanced Registered Nurse Practitioners
SPONSOR(S): Daniels and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	15 Y, 0 N	Siples	McElroy
2) Health & Human Services Committee	20 Y, 0 N	Siples	Calamas

SUMMARY ANALYSIS

Advanced registered nurse practitioners (ARNPs) are licensed registered nurses with post-graduate education in nursing that prepares them to perform advanced or specialized nursing. ARNPs may perform nursing or medical acts that are authorized pursuant to a written protocol with a physician. ARNPs may only sign those documents that are directly related to the performance of the nursing or medical acts authorized pursuant to a protocol, unless otherwise prohibited by law.

Physician assistants (PAs) complete specialized education that prepares them to perform medical services and practice as a part of a health care team. PAs practice under the delegated authority of a supervising physician. A PA may sign only those documents that are directly related to the performance of medical services performed as delegated by a supervising physician and do not, by law, require a physician's signature.

ARNPs and PAs provide comprehensive health care to patients within the scope of their education, certification, and delegated authority. Currently, ARNPs and PAs are prohibited from signing various documents associated with the care that an ARNP or PA provides. Instead, a physician's signature is required on these documents even if the physician did not provide care to the patient. Such documents include the disability certification for certain tax exemptions, a death certificate, and a certificate to initiate an involuntary examination under the Baker Act.

HB 973 authorizes allopathic and osteopathic physicians to delegate authority to ARNPs and PAs to sign, certify, stamp, verify, or endorse any document required by law to be signed by a physician. However, the bill specifically prohibits a PA or an ARNP who is not a psychiatric nurse from approving the release of an individual from a Baker Act receiving facility.

The bill has no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Advanced Registered Nurse Practitioners

Nurses are licensure are licensed by DOH and regulated by the Board of Nursing pursuant to part I of ch. 464, F.S. Licensure requirements to practice nursing include completion of an approved educational course of study, passage of an examination approved by DOH, and acceptable criminal background screening results.¹

A nurse actively licensed to practice professional nursing may be certified as an Advanced Registered Nurse Practitioner (ARNP), under s. 464.012, F.S., if the nurse meets one or both of the following requirements:

- Certification by a specialty board; or
- Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.² All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or dentist.³ ARNPs may carry out treatments as specified in statute, including:⁴

- Prescribing, dispensing, administering, or ordering any drug;⁵
- Initiating appropriate therapies for certain conditions;
- Ordering diagnostic tests and physical and occupational therapy;
- Ordering any medication for administration patients in certain facilities; and
- Performing additional functions as determined by rule.⁶

In addition to the above-allowed acts, an ARNP may also perform other acts as authorized by statute and within his or her specialty.⁷ Currently, there are 27,588 ARNPs who hold active licenses to practice in Florida.⁸

An ARNP may sign only those documents that are directly related to the performance of authorized nursing or medical acts performed pursuant to a physician's protocol and which do not, by law, require a physician's signature. Under current law, an ARNP may not sign, among other things, a certificate to

¹ Sections 464.008 and 464.009, F.S. As an alternative to licensure by examination, a nurse may also be eligible for licensure by endorsement.

² Section 464.012(2), F.S.

³ Section 464.012(3), F.S.

⁴ Id.

⁵ An ARNP may only prescribe controlled substances if he or she has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills. An ARNP is limited to prescribing a 7-day supply of Schedule II controlled substances. Only a psychiatric nurse may prescribe psychotropic controlled substances for the treatment of mental disorders and psychiatric mental health controlled substances for children younger than 18.

⁶ Section 464.003(2), F.S., defines "advanced or specialized nursing practice" to include additional activities that an ARNP may perform as approved by the Board of Nursing.

⁷ Section 464.012(4), F.S.

⁸ Email correspondence with the Department of Health, dated December 14, 2017 (on file with the Health Quality Subcommittee).

initiate an involuntary examination of a person under the Baker Act,⁹ a death certificate,¹⁰ or a certification of a disability for certain tax exemptions.¹¹ Only an ARNP who qualifies as a psychiatric nurse¹² acting within the framework of an established protocol with a psychiatrist may execute a certificate for an involuntary examination under the Baker Act¹³ or authorize the release of a patient from a receiving facility.¹⁴ If the involuntary examination was performed by psychiatrist, a psychiatric nurse may not approve the release of a patient unless it is approved by the initiating psychiatrist.¹⁵

Physician Assistants

Physician assistants are governed by the physician practice acts for medical doctors and doctors of osteopathic medicine. PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S. As of December 2017, there are 9,118 PAs who hold active licenses to practice in Florida.¹⁶

An applicant for a PA license must apply to the Department of Health (DOH). DOH must issue a license to a person certified by the Council as having met all of the following requirements:¹⁷

- Complete an approved PA training program;
- Obtain a passing score on the National Commission on Certification of Physician Assistant exam;
- Acknowledge any prior felony convictions;
- Submit to a background screening and have no disqualifying offenses;¹⁸
- Acknowledge any previous revocation or denial of licensure in any state; and
- Provide a copy of course transcripts and a copy of the course description from a PA training program describing the course content in pharmacotherapy if the applicant is seeking prescribing authority.

PAs may only practice under the direct or indirect supervision of a medical doctor or doctor of osteopathic medicine with whom they have a clinical relationship.¹⁹ A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice.²⁰ The supervising physician is responsible and liable for any acts or omissions of the PA and may not supervise more than four PAs at any time.²¹

The Boards have established by rule that "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. Whether the supervision of a PA is adequate, is dependent upon the:

⁹ The Baker Act authorizes the involuntary examination of certain individuals who, without care or treatment, pose a real and present danger to their well-being or may cause serious bodily injury to themselves or others in the near future, as evidenced by recent behavior (s. 394.463(1), F.S.)

¹⁰ Section 382.008, F.S.

¹¹ Section 196.101, F.S.

¹² Section 394.455(35), F.S., defines a psychiatric nurse as an ARNP who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician.

¹³ Section 394.463(2)(a)1., F.S.

¹⁴ Section 394.463(2)(f), F.S. A receiving facility is a facility designated by the Department of Children and Families to provide the initial examination and short-term treatment of individuals who meet the criteria under the Baker Act.

¹⁵ Id.

¹⁶ Email correspondence with the Department of Health, dated December 14, 2017 (on file with the Health Quality Subcommittee).

¹⁷ Sections 458.347(7) and 459.022(7), F.S.

¹⁸ Section 456.0135, F.S.

¹⁹ Sections 458.347(2)(f) and 459.022(2)(f), F.S., define supervision as responsible supervision and control which requires the easy availability or physical presence of the licensed physician for consultation and direction of the PA.

²⁰ Rules 64B8-30.012 and 64B15-6.010, F.A.C.

²¹ Sections 458.347(15) and 459.022(15), F.S.

- 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.²²

A supervising physician decides whether to permit a PA to perform a task or procedure under direct or indirect based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.²³ A supervising physician may delegate the authority for a PA to:

- Prescribe or dispense any medicinal drug used in the supervising physician's practice unless such medication is listed in the formulary established by the Council;²⁴
- Order any medication for administration to the supervising physician's patient in a hospital or other facility licensed under chapter 395, F.S., or a nursing homes licensed under part II of chapter 400, F.S.;²⁵ and
- Any other services that are not expressly prohibited in ch. 458, F.S., ch. 459, F.S., or the rules adopted thereunder.²⁶

A PA may sign only those documents that are directly related to the performance of medical services performed as delegated by a supervising physician and which do not, by law, require a physician's signature. Under current law, a PA may not sign, among other things, a certificate to initiate an involuntary examination of a person under the Baker Act,²⁷ a death certificate,²⁸ or a certification of a disability for certain tax exemptions.²⁹

Effect of Proposed Changes

HB 973 authorizes allopathic and osteopathic physicians to delegate authority to ARNPs and PAs to sign, certify, stamp, verify, or endorse any document that requires the signature, certification, stamp, verification, or endorsement of a physician. This includes, among other things, signing a disability certification, initiation of an involuntary examination of a person under the Baker Act, or a death certificate. However, the bill specifically prohibits a PA or an ARNP who is not a psychiatric nurse from approving the release of an individual from a Baker Act receiving facility.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

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

²² Rules 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

²³ "Direct supervision" refers to the physical presence of the supervising physician so that the physician is immediately available to the PA when needed. "Indirect supervision" refers to the reasonable physical proximity of the supervising physician to the PA or availability by telecommunication. *Supra* note 22.

²⁴ Sections 458.347(4)(f), F.S., and 459.022(e), F.S., directs the Council to establish a formulary listing the medical drugs that a PA may not prescribe. The formulary in Rules 64B8-30.008, F.A.C., and 64B15-6.0038, F.A.C., prohibits PAs from prescribing; general, spinal or epidural anesthetics; radiographic contrast materials; and psychiatric mental health controlled substances for children younger than 18 years of age. It also restricts the prescribing of Schedule II controlled substances to a 7-day supply. However, the rules authorize physicians to delegate to PAs the authority to order controlled substances in hospitals and other facilities licensed under ch. 395, F.S.

²⁵ Chapter 395, F.S., provides for the regulation and the licensure of hospitals and trauma centers, part II of ch. 400, F.S., provides for the regulation and licensure of nursing home facilities.

²⁶ Sections 458.347(4) and 459.022(e), F.S.

²⁷ *Supra* note 9.

²⁸ *Supra* note 10.

²⁹ *Supra* note 11.

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

Section 3: Amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners; fees; controlled substance prescribing.

Section 4: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If a document requires a physician's signature, patients will have additional options for selecting a health care provider.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. There 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