

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Committee

3 Representative Mariano offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7

8 Section 1. Section 1. Section 456.42, Florida Statutes,
9 is amended to read:

10 456.42 ~~Written~~ Prescriptions for medicinal drugs.—

11 (1) Any ~~A written~~ prescription for a medicinal drug issued
12 by a health care practitioner licensed by law to prescribe such
13 drug must be electronically generated and transmitted legibly
14 ~~printed or typed so as to be capable of being understood by the~~
15 ~~pharmacist filling the prescription; must contain the name of~~
16 ~~the prescribing practitioner, the name and strength of the drug~~

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17 ~~prescribed, the quantity of the drug prescribed, and the~~
18 ~~directions for use of the drug; must be dated; and must be~~
19 ~~signed by the prescribing practitioner on the day when issued.~~
20 ~~However, A prescription that is electronically generated and~~
21 ~~transmitted must contain the name of the prescribing~~
22 ~~practitioner, the name and strength of the drug prescribed, the~~
23 ~~quantity of the drug prescribed in numerical format, and the~~
24 ~~directions for use of the drug and must contain the date and an~~
25 ~~electronic signature, as defined in s. 668.003(4), be dated and~~
26 ~~signed by the prescribing practitioner only on the day issued,~~
27 ~~which signature may be in an electronic format as defined in s.~~
28 ~~668.003(4).~~

29 (2) A prescriber may issue a written prescription only
30 when electronic prescribing is not available due to a temporary
31 technological or electrical failure that is not reasonably in
32 the control of the prescribing practitioner, and such failure is
33 documented in the patient record. A written prescription for a
34 controlled substance listed in chapter 893 must have the
35 quantity of the drug prescribed in both textual and numerical
36 formats, must be dated in numerical, month/day/year format, or
37 with the abbreviated month written out, or the month written out
38 in whole, and must be written on a standardized counterfeit-
39 proof prescription pad produced by a vendor approved by the
40 department. As a condition of being an approved vendor, a
41 prescription pad vendor must submit a monthly report to the

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42 department that, at a minimum, documents the number of
43 prescription pads sold and identifies the purchasers. The
44 department may, by rule, require the reporting of additional
45 information.

46 (3) Electronic prescribing shall not interfere with a
47 patient's freedom to choose a pharmacy.

48 (4) Electronic prescribing software shall not use any
49 means or permit any other person to use any means, including,
50 but not limited to, advertising, instant messaging, and pop-up
51 ads, to influence or attempt to influence, through economic
52 incentives or otherwise, the prescribing decision of a
53 prescribing practitioner or his or her agent at the point of
54 care. Such means shall not be triggered by, or in specific
55 response to, the input, selection, or act of a prescribing
56 practitioner or his or her agent in prescribing a certain
57 medicinal drug or directing a patient to a certain pharmacy. For
58 purposes of this subsection, the term:

59 (a) "Point of care" means the time at which a prescribing
60 practitioner or his or her agent prescribes any medicinal drug.

61 (b) "Prescribing decision" means a prescribing
62 practitioner's or his or her agent's decision to prescribe any
63 medicinal drug.

64 (5) Electronic prescribing software may display
65 information regarding a payor's formulary if nothing is designed
66 to preclude or make more difficult the selection of any

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67 particular pharmacy by a patient or the selection of any certain
68 medicinal drug by a prescribing practitioner or his or her
69 agent.

70 ~~(2) A written prescription for a controlled substance~~
71 ~~listed in chapter 893 must have the quantity of the drug~~
72 ~~prescribed in both textual and numerical formats, must be dated~~
73 ~~in numerical, month/day/year format, or with the abbreviated~~
74 ~~month written out, or the month written out in whole, and must~~
75 ~~be either written on a standardized counterfeit-proof~~
76 ~~prescription pad produced by a vendor approved by the department~~
77 ~~or electronically prescribed as that term is used in s.~~
78 ~~408.0611. As a condition of being an approved vendor, a~~
79 ~~prescription pad vendor must submit a monthly report to the~~
80 ~~department that, at a minimum, documents the number of~~
81 ~~prescription pads sold and identifies the purchasers. The~~
82 ~~department may, by rule, require the reporting of additional~~
83 ~~information.~~

84 Section 2. Section 4. Section 456.0392, Florida Statutes,
85 is amended to read:

86 456.0392 Prescription labeling.—

87 (1) A prescription ~~written~~ by a practitioner who is
88 authorized under the laws of this state to prescribe ~~write~~
89 ~~prescriptions for~~ drugs that are not listed as controlled
90 substances in chapter 893 but who is not eligible for a federal
91 Drug Enforcement Administration number shall include that

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92 practitioner's name and professional license number. The
93 pharmacist or dispensing practitioner must include the
94 practitioner's name on the container of the drug that is
95 dispensed. A pharmacist shall be permitted, upon verification by
96 the prescriber, to document any information required by this
97 section.

98 (2) A prescription for a drug that is not listed as a
99 controlled substance in chapter 893 ~~which is written~~ by an
100 advanced practice registered nurse licensed under s. 464.012 is
101 presumed, subject to rebuttal, to be valid and within the
102 parameters of the prescriptive authority delegated by a
103 practitioner licensed under chapter 458, chapter 459, or chapter
104 466.

105 (3) A prescription for a drug that is not listed as a
106 controlled substance in chapter 893 ~~which is written~~ by a
107 physician assistant licensed under chapter 458 or chapter 459 is
108 presumed, subject to rebuttal, to be valid and within the
109 parameters of the prescriptive authority delegated by the
110 physician assistant's supervising physician.

111 Section 3. Paragraph (d) of subsection (3) of section
112 458.3265, Florida Statutes, is amended to read:

113 458.3265 Pain-management clinics.—

114 (3) PHYSICIAN RESPONSIBILITIES.—These responsibilities
115 apply to any physician who provides professional services in a

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116 pain-management clinic that is required to be registered in
117 subsection (1).

118 (d) A physician authorized to prescribe controlled
119 substances who practices at a pain-management clinic is
120 responsible for maintaining the control and security of his or
121 her electronic prescribing software and prescription blanks ~~and~~
122 ~~any other method~~ used for prescribing controlled substance pain
123 medication. The physician shall comply with the requirements for
124 counterfeit-resistant prescription blanks in s. 893.065 and the
125 rules adopted pursuant to that section. The physician shall
126 notify, in writing, the department within 24 hours after
127 ~~following~~ any theft or loss of a prescription blank or breach of
128 his or her electronic prescribing software ~~any other method for~~
129 ~~prescribing pain medication.~~

130 Section 4. Paragraph (qq) of subsection (1) of section
131 458.331, Florida Statutes, is amended to read:

132 458.331 Grounds for disciplinary action; action by the
133 board and department.—

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

136 (qq) Failing to timely notify the department of the theft
137 of prescription blanks from a pain-management clinic or a breach
138 of a physician's electronic prescribing software ~~other methods~~
139 ~~for prescribing~~ within 24 hours as required by s. 458.3265(3).

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140 Section 5. Section 7. Paragraph (e) of subsection (4)
141 of section 458.347, Florida Statutes, is amended to read:

142 458.347 Physician assistants.—

143 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

144 (e) A supervising physician may delegate to a fully
145 licensed physician assistant the authority to prescribe or
146 dispense any medication used in the supervising physician's
147 practice unless such medication is listed on the formulary
148 created pursuant to paragraph (f). A fully licensed physician
149 assistant may only prescribe or dispense such medication under
150 the following circumstances:

151 1. A physician assistant must clearly identify to the
152 patient that he or she is a physician assistant and inform the
153 patient that the patient has the right to see the physician
154 before a prescription is prescribed or dispensed by the
155 physician assistant.

156 2. The supervising physician must notify the department of
157 his or her intent to delegate, on a department-approved form,
158 before delegating such authority and of any change in
159 prescriptive privileges of the physician assistant. Authority to
160 dispense may be delegated only by a supervising physician who is
161 registered as a dispensing practitioner in compliance with s.
162 465.0276.

163 3. The physician assistant must complete a minimum of 10
164 continuing medical education hours in the specialty practice in

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165 | which the physician assistant has prescriptive privileges with
166 | each licensure renewal. Three of the 10 hours must consist of a
167 | continuing education course on the safe and effective
168 | prescribing of controlled substance medications which is offered
169 | by a statewide professional association of physicians in this
170 | state accredited to provide educational activities designated
171 | for the American Medical Association Physician's Recognition
172 | Award Category 1 credit or designated by the American Academy of
173 | Physician Assistants as a Category 1 credit.

174 | 4. The department may issue a prescriber number to the
175 | physician assistant granting authority for the prescribing of
176 | medicinal drugs authorized within this paragraph upon completion
177 | of the requirements of this paragraph. The physician assistant
178 | is not required to independently register pursuant to s.
179 | 465.0276.

180 | 5. The prescription ~~may be in paper or electronic form but~~
181 | must comply with ss. 456.0392(1) and 456.42(1) and chapter 499
182 | and must contain, in addition to the supervising physician's
183 | name, address, and telephone number, the physician assistant's
184 | prescriber number. Unless it is a drug or drug sample dispensed
185 | by the physician assistant, the prescription must be filled in a
186 | pharmacy permitted under chapter 465 and must be dispensed in
187 | that pharmacy by a pharmacist licensed under chapter 465. The
188 | inclusion of the prescriber number creates a presumption that

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189 the physician assistant is authorized to prescribe the medicinal
190 drug and the prescription is valid.

191 6. The physician assistant must note the prescription or
192 dispensing of medication in the appropriate medical record.

193 Section 6. Section 8. Paragraph (d) of subsection (3) of
194 section 459.0137, Florida Statutes, is amended to read:

195 459.0137 Pain-management clinics.—

196 (3) PHYSICIAN RESPONSIBILITIES.—These responsibilities
197 apply to any osteopathic physician who provides professional
198 services in a pain-management clinic that is required to be
199 registered in subsection (1).

200 (d) An osteopathic physician authorized to prescribe
201 controlled substances who practices at a pain-management clinic
202 is responsible for maintaining the control and security of his
203 or her electronic prescribing software and prescription blanks
204 ~~and any other method~~ used for prescribing controlled substance
205 pain medication. The osteopathic physician shall comply with the
206 requirements for counterfeit-resistant prescription blanks in s.
207 893.065 and the rules adopted pursuant to that section. The
208 osteopathic physician shall notify, in writing, the department
209 within 24 hours after ~~following~~ any theft or loss of a
210 prescription blank or breach of his or her electronic
211 prescribing software ~~of any other method for prescribing pain~~
212 ~~medication.~~

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213 Section 7. Paragraph (ss) of subsection (1) of section
214 459.015, Florida Statutes, is amended to read:

215 459.015 Grounds for disciplinary action; action by the
216 board and department.—

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

219 (ss) Failing to timely notify the department of the theft
220 of prescription blanks from a pain-management clinic or a breach
221 of an osteopathic physician's electronic prescribing software ~~of~~
222 ~~other methods for prescribing~~ within 24 hours as required by s.
223 459.0137(3).

224 Section 8. Paragraph (e) of subsection (4) of section
225 459.022, Florida Statutes, is amended to read:

226 459.022 Physician assistants.—

227 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

228 (e) A supervising physician may delegate to a fully
229 licensed physician assistant the authority to prescribe or
230 dispense any medication used in the supervising physician's
231 practice unless such medication is listed on the formulary
232 created pursuant to s. 458.347. A fully licensed physician
233 assistant may only prescribe or dispense such medication under
234 the following circumstances:

235 1. A physician assistant must clearly identify to the
236 patient that she or he is a physician assistant and must inform
237 the patient that the patient has the right to see the physician

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238 before a prescription is prescribed or dispensed by the
239 physician assistant.

240 2. The supervising physician must notify the department of
241 her or his intent to delegate, on a department-approved form,
242 before delegating such authority and of any change in
243 prescriptive privileges of the physician assistant. Authority to
244 dispense may be delegated only by a supervising physician who is
245 registered as a dispensing practitioner in compliance with s.
246 465.0276.

247 3. The physician assistant must complete a minimum of 10
248 continuing medical education hours in the specialty practice in
249 which the physician assistant has prescriptive privileges with
250 each licensure renewal.

251 4. The department may issue a prescriber number to the
252 physician assistant granting authority for the prescribing of
253 medicinal drugs authorized within this paragraph upon completion
254 of the requirements of this paragraph. The physician assistant
255 is not required to independently register pursuant to s.
256 465.0276.

257 5. The prescription ~~may be in paper or electronic form but~~
258 must comply with ss. 456.0392(1) and 456.42~~(1)~~ and chapter 499
259 and must contain, in addition to the supervising physician's
260 name, address, and telephone number, the physician assistant's
261 prescriber number. Unless it is a drug or drug sample dispensed
262 by the physician assistant, the prescription must be filled in a

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263 pharmacy permitted under chapter 465, and must be dispensed in
264 that pharmacy by a pharmacist licensed under chapter 465. The
265 inclusion of the prescriber number creates a presumption that
266 the physician assistant is authorized to prescribe the medicinal
267 drug and the prescription is valid.

268 6. The physician assistant must note the prescription or
269 dispensing of medication in the appropriate medical record.

270 Section 9. Section 456.43, Florida Statutes, is repealed.

271 Section 10. This act shall take effect January 1, 2021.

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T I T L E A M E N D M E N T

276

Remove everything before the enacting clause and insert:

277

An act relating to electronic prescribing; amending s. 456.42,

278

F.S.; requiring all prescriptions to be electronically generated

279

and transmitted; prohibiting electronic prescribing from

280

interfering with a patient's freedom to choose a pharmacy;

281

providing restrictions for electronic prescribing software;

282

providing definitions; authorizing electronic prescribing

283

software to display information regarding a payor's formulary

284

under certain circumstances; amending ss. 456.0392, 458.3265,

285

458.331, 458.347, 459.0137, 459.015, and 459.022, F.S.;

286

conforming provisions to changes made by the act; repealing s.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 831 (2019)

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287 | 456.43, F.S., relating to electronic prescribing for medicinal
288 | drugs; providing an effective date.