

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1307 Physician Assistants  
**SPONSOR(S):** Health Quality Subcommittee; Plasencia  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	9 Y, 0 N, As CS	Siples	McElroy
2) Health Care Appropriations Subcommittee	14 Y, 0 N	Mielke	Pridgeon
3) Health & Human Services Committee			

### 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.

CS/HB 1307 requires a PA, as a part of the biennial licensure renewal process, to respond to a biennial workforce survey to collect information regarding the PA's practice, including information on critically needed services. DOH must issue a nondisciplinary citation to a PA who fails to complete the survey within 90 days after the renewal of his or her license. The citation must notify the PA who fails to complete the required survey that his or her licensure will not be subsequently renewed unless the PA completes the survey.

The Council on Physician Assistants (Council) advises DOH, the Board of Medicine, and the Board of Osteopathic Medicine on matters related to the licensure and regulation of PAs in this state. Currently, the Council is composed of four physicians and one PA. Beginning October 1, 2017, the bill changes the composition of the Council to two physicians and three PAs to provide PAs greater representation in developing policy that regulates the profession.

Currently, PAs must notify DOH of their supervising physician upon employment and within 30 days of a change in the supervising physician. The bill requires a PA to notify DOH of a designated supervising physician and any change of designated supervising if he or she is practicing in a facility or practice with multiple supervisory physicians. Such notice must be provided within 30 days. 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 will have an indeterminate negative fiscal impact on DOH that can be managed with existing Department resources and no fiscal impact on local governments.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Under Florida law, 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 February 2017, there are 7,527 active licensed PAs.<sup>1</sup>

##### Council on Physician Assistants

The Council on Physician Assistants (Council) consists of five members including three physicians who are members of the Board of Medicine, one physician who is a member of the Board of Osteopathic Medicine, and one licensed PA appointed by the Surgeon General.<sup>2</sup> Two of the physicians must be physicians who supervise physician assistants in their practice. The Council is responsible for:

- Making recommendations to DOH regarding the licensure of PAs;
- Developing rules for the regulation of PAs for consideration for adoption by the boards;
- Making recommendations to the boards regarding all matters relating to PAs;
- Addressing concerns and problems of practicing PAs to ensure patient safety; and
- Denying, restricting, or placing conditions on the license of PA who fails to meet the licensing requirements.

##### Licensure and Regulation of Physician Assistants

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:

- Satisfactorily passes the National Commission on Certification of Physician Assistants exam;
- Completes an application form and remit the registration fee;
- Completes an approved PA training program;
- Provides an acknowledgement of any prior felony convictions;
- Provides an acknowledgement of any revocation or denial of licensure or certification in any state; and
- If the applicant wishes to apply for prescribing authority, submits of a copy of course transcripts and a copy of the course description from a PA training program describing the course content in pharmacotherapy.<sup>3</sup>

In Florida, 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.<sup>4</sup>

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<sup>1</sup> E-mail correspondence with the Department of Health dated February 2, 2017, (on file with the staff of the Health and Human Services Committee).

<sup>2</sup> Members of the Board of Medicine and the Board of Osteopathic Medicine are appointed by the Governor and confirmed by the Senate. See ss. 458.307 and 459.004, F.S., respectively.

<sup>3</sup> See s. 458.347 and s. 459.022, F.S.

<sup>4</sup> Sections 458.347(3), F.S., and 459.022(3), F.S.; and Rules 64B8-30.012, F.A.C., and 64B15-6.010, F.A.C.

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:

- 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.<sup>5</sup>

A supervising physician may only delegate tasks and procedures to the PA which are within the supervising physician’s scope of practice.<sup>6</sup> The decision to permit the PA to perform a task or procedure under direct or indirect supervision is made by the supervising physician based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.<sup>7</sup>

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;<sup>8</sup>
- Order any medication for administration 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.;<sup>9</sup> and
- Any other services that are not expressly prohibited in ch. 458, F.S., ch. 459, F.S., or the rules adopted thereunder.<sup>10</sup>

### Health Care Professional Shortage

Florida is experiencing a health care professional shortage. This is evidenced by the fact that for just primary care, dental care, and mental health there are 655 federally designated Health Professional Shortage Areas (HPSA) within the state.<sup>11</sup> It would take 1,010 primary care, 1,203 dental care, and 254 mental health practitioners to eliminate these shortage areas.<sup>12</sup>

PAs may help alleviate the physician shortage by acting as a physician extender. PAs treat diverse patient groups and perform medical functions that are similar to the medical care provided by primary care physicians, such as performing physical examinations, diagnosing and treating illnesses, order and interpreting laboratory tests, prescribing medications, and managing patients with chronic

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<sup>5</sup> Rules 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

<sup>6</sup> *Supra* note 3.

<sup>7</sup> “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* note5.

<sup>8</sup> 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.

<sup>9</sup> 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.

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

<sup>11</sup> U.S. Department of Health and Human Services, Health Resources and Services Administration, *Shortage Areas, available at* <http://www.hrsa.gov/shortage/> (last visited March 19, 2017).

<sup>12</sup> *Id.*

conditions.<sup>13</sup> PAs may also assist in the care of patients needing mental health care by conducting histories and physicals, performing psychiatric evaluations and assessments, ordering and interpreting diagnostic tests, establishing and managing treatment plans, and ordering referrals.<sup>14</sup>

Since there is no comprehensive studies regarding the roles PAs play in the health care system in this state, the impact of their practice cannot be determined.

### Physician Workforce Survey

Each allopathic or osteopathic physician is required to complete a workforce survey in conjunction with the biennial renewal of his or her license.<sup>15</sup> In the survey, the physician must provide:

- Licensee information, including, but not limited to:
  - Frequency and geographic location of practice within the state;
  - Practice setting;
  - Percentage of time spent in direct patient care;
  - Anticipated change to license or practice status; and
  - Areas of specialty or certification; and
- Information on availability and trends relating to critically needed services, including, but not limited to:
  - Obstetric care and services;
  - Radiologic services, particularly performance of mammograms and breast-imaging services;
  - Physician services for hospital emergency departments and trauma centers, including on-call hours; and
  - Other critically needed specialty areas, as determined by DOH.<sup>16</sup>

DOH must issue a nondisciplinary citation to any Florida-licensed physician who fails to complete the survey within 90 days after the renewal of his or her license. The citation must notify a physician who fails to complete the required survey that his or her license will not be renewed for any subsequent licensure renewal unless the physician completes the survey. In conjunction with issuing the license-renewal notice, DOH must notify each physician who has failed to complete the survey at the licensee's last known address of record with DOH of the requirement that the physician survey be completed prior to the subsequent license renewal. At any subsequent license renewal, DOH may not renew the license of any physician, until the required survey is completed by the licensee.

All identifying information in the contained in the physician survey is confidential and exempt from the public records law and may only be disclosed:

- With the express written consent of the individual to whom the information pertains or the individual's legally authorized representative;
- By court order upon a showing of good cause; and
- To certain research entities.<sup>17</sup>

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<sup>13</sup> American Academy of Physician Assistants, *Specialty Practice: PAs in Primary Care*, (Jan. 2010), available at [https://www.aapa.org/wp-content/uploads/2016/12/SP\\_PAs\\_PrimaryCare.pdf](https://www.aapa.org/wp-content/uploads/2016/12/SP_PAs_PrimaryCare.pdf) (last visited March 19, 2017).

<sup>14</sup> American Academy of Physician Assistants, *Specialty Practice: PAs in Psychiatry* (Jan. 2010), available at [https://www.aapa.org/wp-content/uploads/2016/12/SP\\_PAs\\_Psychiatry.pdf](https://www.aapa.org/wp-content/uploads/2016/12/SP_PAs_Psychiatry.pdf) (last visited March 19, 2017).

<sup>15</sup> Sections 458.3191 and 459.0081, F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Sections 458.3193 and 459.0083, F.S.

## Effect of Proposed Changes

### Physician Assistant Workforce Survey

The bill requires a PA to complete a workforce survey that is administered in the same manner and collects the same information as the physician survey described above. The survey must be completed as a part of the biennial licensure renewal process. Beginning July 1, 2018, DOH must report the data collected to the Boards of Medicine and Osteopathic Medicine.

If a PA fails to submit the survey within 90 days after the renewal of his or her license, DOH must issue a nondisciplinary citation notifying the PA that his or her license is not eligible for any subsequent license renewal until the survey is completed. At the time it issues the licensure renewal notice, DOH must also notify a PA that failed to complete the survey, at the last address DOH has on record, that the PA survey must be completed prior to any subsequent licensure renewal.<sup>18</sup> The bill prohibits DOH from renewing the license of a PA at any subsequent renewal until the survey is completed.

The bill authorizes DOH to develop rules to implement the PA survey.

### Designated Supervising Physician

Under current law, a PA must notify 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 supervising physician changes. The bill requires a PA to also notify DOH of the designated supervising physician and any change in a designated supervising physician within 30 days.<sup>19</sup> If a PA has a designated supervising physician, he or she may still practice under the supervision of another physician.

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 written request by DOH.

### Council on Physician Assistants

Beginning October 1, 2017, the bill changes the constitution of the Council to one physician who is a member of the Board of Medicine, one physician who is a member of the Board of Osteopathic Medicine, and three licensed physician assistants appointed by the Surgeon General. The bill clarifies that each of the physicians on the Council must supervise a physician assistant in his or her practice. Physician assistants will have a greater opportunity to assist in the development of policy for the regulation of their profession.

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

#### 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, 2017.

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<sup>18</sup> DOH sends a renewal notification to a licensee at least 90 days before the end of a licensure period. (Section 456.038, F.S.)

<sup>19</sup> 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.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOH will incur an indeterminate negative fiscal impact related to enforcement of the PA survey requirement, including changes to its Licensure and Enforcement Information Database System and will also incur an insignificant, indeterminate negative fiscal impact for costs related to rulemaking, which current budget authority is adequate to absorb.

The bill requires DOH to complete a PA workforce survey that is administered in the same manner and collects the same information as the physician survey. DOH should be able to leverage resources from the administration of the physician survey to absorb any fiscal impact.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect local or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2017, the Health Quality Subcommittee adopted an amendment that:

- Requires the physician assistant workforce survey to be administered in the same manner and collect the same information as the current physician workforce survey;
- Requires DOH to report the data it collects to the Boards of Medicine and Osteopathic Medicine every two years beginning July 1, 2018;
- Clarifies that a PA must notify DOH of his or her supervising physician or designated supervising physician upon employment or when there is a change; and
- Provides an effective date of October 1, 2017, for the new composition of the Council on Physician Assistants.

The bill was reported favorably as a committee substitute. This analysis is drafted to the committee substitute.