

1 A bill to be entitled
 2 An act relating to electronic prescribing; amending s.
 3 456.42, F.S.; requiring all prescriptions to be
 4 electronically generated and transmitted; prohibiting
 5 electronic prescribing from interfering with a
 6 patient's freedom to choose a pharmacy; providing
 7 restrictions for electronic prescribing software;
 8 providing definitions; authorizing electronic
 9 prescribing software to display information regarding
 10 a payor's formulary under certain circumstances;
 11 amending ss. 456.0392, 458.3265, 458.331, 458.347,
 12 459.0137, 459.015, and 459.022, F.S.; conforming
 13 provisions to changes made by the act; repealing s.
 14 456.43, F.S., relating to electronic prescribing for
 15 medicinal drugs; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 456.42, Florida Statutes, is amended to
 20 read:

21 456.42 ~~Written~~ Prescriptions for medicinal drugs.—

22 (1) Any ~~A written~~ prescription for a medicinal drug issued
 23 by a health care practitioner licensed by law to prescribe such
 24 drug must be electronically generated and transmitted ~~legibly~~
 25 ~~printed or typed so as to be capable of being understood by the~~

26 | ~~pharmacist filling the prescription; must contain the name of~~
27 | ~~the prescribing practitioner, the name and strength of the drug~~
28 | ~~prescribed, the quantity of the drug prescribed, and the~~
29 | ~~directions for use of the drug; must be dated; and must be~~
30 | ~~signed by the prescribing practitioner on the day when issued.~~
31 | ~~However,~~ A prescription that is electronically generated and
32 | ~~transmitted~~ must contain the name of the prescribing
33 | practitioner, the name and strength of the drug prescribed, the
34 | quantity of the drug prescribed in numerical format, and the
35 | directions for use of the drug and must contain the date and an
36 | electronic signature, as defined in s. 668.003(4), ~~be dated and~~
37 | ~~signed~~ by the prescribing practitioner only on the day issued,
38 | ~~which signature may be in an electronic format as defined in s.~~
39 | ~~668.003(4).~~

40 | (2) A prescriber may issue a written prescription only
41 | when electronic prescribing is not available due to a temporary
42 | technological or electrical failure that is not reasonably in
43 | the control of the prescribing practitioner, and such failure is
44 | documented in the patient record. A written prescription for a
45 | controlled substance listed in chapter 893 must have the
46 | quantity of the drug prescribed in both textual and numerical
47 | formats, must be dated in numerical, month/day/year format, or
48 | with the abbreviated month written out, or the month written out
49 | in whole, and must be written on a standardized counterfeit-
50 | proof prescription pad produced by a vendor approved by the

51 department. As a condition of being an approved vendor, a
52 prescription pad vendor must submit a monthly report to the
53 department that, at a minimum, documents the number of
54 prescription pads sold and identifies the purchasers. The
55 department may, by rule, require the reporting of additional
56 information.

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

59 (4) Electronic prescribing software shall not use any
60 means or permit any other person to use any means, including,
61 but not limited to, advertising, instant messaging, and pop-up
62 ads, to influence or attempt to influence, through economic
63 incentives or otherwise, the prescribing decision of a
64 prescribing practitioner or his or her agent at the point of
65 care. Such means shall not be triggered by, or in specific
66 response to, the input, selection, or act of a prescribing
67 practitioner or his or her agent in prescribing a certain
68 medicinal drug or directing a patient to a certain pharmacy. For
69 purposes of this subsection, the term:

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

72 (b) "Prescribing decision" means a prescribing
73 practitioner's or his or her agent's decision to prescribe any
74 medicinal drug.

75 (5) Electronic prescribing software may display

76 information regarding a payor's formulary if nothing is designed
77 to preclude or make more difficult the selection of any
78 particular pharmacy by a patient or the selection of any certain
79 medicinal drug by a prescribing practitioner or his or her
80 agent.

81 ~~(2) A written prescription for a controlled substance~~
82 ~~listed in chapter 893 must have the quantity of the drug~~
83 ~~prescribed in both textual and numerical formats, must be dated~~
84 ~~in numerical, month/day/year format, or with the abbreviated~~
85 ~~month written out, or the month written out in whole, and must~~
86 ~~be either written on a standardized counterfeit-proof~~
87 ~~prescription pad produced by a vendor approved by the department~~
88 ~~or electronically prescribed as that term is used in s.~~
89 ~~408.0611. As a condition of being an approved vendor, a~~
90 ~~prescription pad vendor must submit a monthly report to the~~
91 ~~department that, at a minimum, documents the number of~~
92 ~~prescription pads sold and identifies the purchasers. The~~
93 ~~department may, by rule, require the reporting of additional~~
94 ~~information.~~

95 Section 2. Section 456.0392, Florida Statutes, is amended
96 to read:

97 456.0392 Prescription labeling.—

98 (1) A prescription ~~written~~ by a practitioner who is
99 authorized under the laws of this state to prescribe write
100 ~~prescriptions for~~ drugs that are not listed as controlled

101 substances in chapter 893 but who is not eligible for a federal
 102 Drug Enforcement Administration number shall include that
 103 practitioner's name and professional license number. The
 104 pharmacist or dispensing practitioner must include the
 105 practitioner's name on the container of the drug that is
 106 dispensed. A pharmacist shall be permitted, upon verification by
 107 the prescriber, to document any information required by this
 108 section.

109 (2) A prescription for a drug that is not listed as a
 110 controlled substance in chapter 893 ~~which is written~~ by an
 111 advanced practice registered nurse licensed under s. 464.012 is
 112 presumed, subject to rebuttal, to be valid and within the
 113 parameters of the prescriptive authority delegated by a
 114 practitioner licensed under chapter 458, chapter 459, or chapter
 115 466.

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

122 Section 3. Paragraph (d) of subsection (3) of section
 123 458.3265, Florida Statutes, is amended to read:

124 458.3265 Pain-management clinics.—

125 (3) PHYSICIAN RESPONSIBILITIES.—These responsibilities

126 apply to any physician who provides professional services in a
127 pain-management clinic that is required to be registered in
128 subsection (1).

129 (d) A physician authorized to prescribe controlled
130 substances who practices at a pain-management clinic is
131 responsible for maintaining the control and security of his or
132 her electronic prescribing software and prescription blanks ~~and~~
133 ~~any other method~~ used for prescribing controlled substance pain
134 medication. The physician shall comply with the requirements for
135 counterfeit-resistant prescription blanks in s. 893.065 and the
136 rules adopted pursuant to that section. The physician shall
137 notify, in writing, the department within 24 hours after
138 ~~following~~ any theft or loss of a prescription blank or breach of
139 his or her electronic prescribing software ~~any other method for~~
140 ~~prescribing pain medication.~~

141 Section 4. Paragraph (qq) of subsection (1) of section
142 458.331, Florida Statutes, is amended to read:

143 458.331 Grounds for disciplinary action; action by the
144 board and department.—

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

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

151 Section 5. Paragraph (e) of subsection (4) of section
 152 458.347, Florida Statutes, is amended to read:

153 458.347 Physician assistants.—

154 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

155 (e) A supervising physician may delegate to a fully
 156 licensed physician assistant the authority to prescribe or
 157 dispense any medication used in the supervising physician's
 158 practice unless such medication is listed on the formulary
 159 created pursuant to paragraph (f). A fully licensed physician
 160 assistant may only prescribe or dispense such medication under
 161 the following circumstances:

162 1. A physician assistant must clearly identify to the
 163 patient that he or she is a physician assistant and inform the
 164 patient that the patient has the right to see the physician
 165 before a prescription is prescribed or dispensed by the
 166 physician assistant.

167 2. The supervising physician must notify the department of
 168 his or her intent to delegate, on a department-approved form,
 169 before delegating such authority and of any change in
 170 prescriptive privileges of the physician assistant. Authority to
 171 dispense may be delegated only by a supervising physician who is
 172 registered as a dispensing practitioner in compliance with s.
 173 465.0276.

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

176 | which the physician assistant has prescriptive privileges with
177 | each licensure renewal. Three of the 10 hours must consist of a
178 | continuing education course on the safe and effective
179 | prescribing of controlled substance medications which is offered
180 | by a statewide professional association of physicians in this
181 | state accredited to provide educational activities designated
182 | for the American Medical Association Physician's Recognition
183 | Award Category 1 credit or designated by the American Academy of
184 | Physician Assistants as a Category 1 credit.

185 | 4. The department may issue a prescriber number to the
186 | physician assistant granting authority for the prescribing of
187 | medicinal drugs authorized within this paragraph upon completion
188 | of the requirements of this paragraph. The physician assistant
189 | is not required to independently register pursuant to s.
190 | 465.0276.

191 | 5. The prescription ~~may be in paper or electronic form but~~
192 | must comply with ss. 456.0392(1) and 456.42(1) and chapter 499
193 | and must contain, in addition to the supervising physician's
194 | name, address, and telephone number, the physician assistant's
195 | prescriber number. Unless it is a drug or drug sample dispensed
196 | by the physician assistant, the prescription must be filled in a
197 | pharmacy permitted under chapter 465 and must be dispensed in
198 | that pharmacy by a pharmacist licensed under chapter 465. The
199 | inclusion of the prescriber number creates a presumption that
200 | the physician assistant is authorized to prescribe the medicinal

201 drug and the prescription is valid.

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

204 Section 6. Paragraph (d) of subsection (3) of section
 205 459.0137, Florida Statutes, is amended to read:

206 459.0137 Pain-management clinics.—

207 (3) PHYSICIAN RESPONSIBILITIES.—These responsibilities
 208 apply to any osteopathic physician who provides professional
 209 services in a pain-management clinic that is required to be
 210 registered in subsection (1).

211 (d) An osteopathic physician authorized to prescribe
 212 controlled substances who practices at a pain-management clinic
 213 is responsible for maintaining the control and security of his
 214 or her electronic prescribing software and prescription blanks
 215 ~~and any other method~~ used for prescribing controlled substance
 216 pain medication. The osteopathic physician shall comply with the
 217 requirements for counterfeit-resistant prescription blanks in s.
 218 893.065 and the rules adopted pursuant to that section. The
 219 osteopathic physician shall notify, in writing, the department
 220 within 24 hours after ~~following~~ any theft or loss of a
 221 prescription blank or breach of his or her electronic
 222 prescribing software ~~of any other method for prescribing pain~~
 223 ~~medication~~.

224 Section 7. Paragraph (ss) of subsection (1) of section
 225 459.015, Florida Statutes, is amended to read:

226 459.015 Grounds for disciplinary action; action by the
 227 board and department.—

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

230 (ss) Failing to timely notify the department of the theft
 231 of prescription blanks from a pain-management clinic or a breach
 232 of an osteopathic physician's electronic prescribing software ~~of~~
 233 ~~other methods for prescribing~~ within 24 hours as required by s.
 234 459.0137(3).

235 Section 8. Paragraph (e) of subsection (4) of section
 236 459.022, Florida Statutes, is amended to read:

237 459.022 Physician assistants.—

238 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

239 (e) A supervising physician may delegate to a fully
 240 licensed physician assistant the authority to prescribe or
 241 dispense any medication used in the supervising physician's
 242 practice unless such medication is listed on the formulary
 243 created pursuant to s. 458.347. A fully licensed physician
 244 assistant may only prescribe or dispense such medication under
 245 the following circumstances:

246 1. A physician assistant must clearly identify to the
 247 patient that she or he is a physician assistant and must inform
 248 the patient that the patient has the right to see the physician
 249 before a prescription is prescribed or dispensed by the
 250 physician assistant.

251 2. The supervising physician must notify the department of
 252 her or his intent to delegate, on a department-approved form,
 253 before delegating such authority and of any change in
 254 prescriptive privileges of the physician assistant. Authority to
 255 dispense may be delegated only by a supervising physician who is
 256 registered as a dispensing practitioner in compliance with s.
 257 465.0276.

258 3. The physician assistant must complete a minimum of 10
 259 continuing medical education hours in the specialty practice in
 260 which the physician assistant has prescriptive privileges with
 261 each licensure renewal.

262 4. The department may issue a prescriber number to the
 263 physician assistant granting authority for the prescribing of
 264 medicinal drugs authorized within this paragraph upon completion
 265 of the requirements of this paragraph. The physician assistant
 266 is not required to independently register pursuant to s.
 267 465.0276.

268 5. The prescription ~~may be in paper or electronic form but~~
 269 must comply with ss. 456.0392(1) and 456.42(1) and chapter 499
 270 and must contain, in addition to the supervising physician's
 271 name, address, and telephone number, the physician assistant's
 272 prescriber number. Unless it is a drug or drug sample dispensed
 273 by the physician assistant, the prescription must be filled in a
 274 pharmacy permitted under chapter 465, and must be dispensed in
 275 that pharmacy by a pharmacist licensed under chapter 465. The

276 inclusion of the prescriber number creates a presumption that
277 the physician assistant is authorized to prescribe the medicinal
278 drug and the prescription is valid.

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

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

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