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

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

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

456.42  Written Prescriptions for medicinal drugs.—

(1) Any written prescription for a medicinal drug issued by a health care practitioner licensed by law to prescribe such drug must be electronically generated and transmitted legibly printed or typed so as to be capable of being understood by the
pharmacist filling the prescription, must contain the name of
the prescribing practitioner, the name and strength of the drug
prescribed, the quantity of the drug prescribed, and the
directions for use of the drug; must be dated; and must be
signed by the prescribing practitioner on the day when issued.

However, a prescription that is electronically generated and
transmitted must contain the name of the prescribing
practitioner, the name and strength of the drug prescribed, the
quantity of the drug prescribed in numerical format, and the
directions for use of the drug and must contain the date and an
electronic signature, as defined in s. 668.003(4), be dated and
signed by the prescribing practitioner only on the day issued,
which signature may be in an electronic format as defined in s.
668.003(4).

(2) A prescriber may issue a written prescription only
when electronic prescribing is not available due to a temporary
technological or electrical failure that is not reasonably in
the control of the prescribing practitioner, and such failure is
documented in the patient record. A written prescription for a
controlled substance listed in chapter 893 must have the
quantity of the drug prescribed in both textual and numerical
formats, must be dated in numerical, month/day/year format, or
with the abbreviated month written out, or the month written out
in whole, and must be written on a standardized counterfeit-
proof prescription pad produced by a vendor approved by the
department. As a condition of being an approved vendor, a
prescription pad vendor must submit a monthly report to the
department that, at a minimum, documents the number of
prescription pads sold and identifies the purchasers. The
department may, by rule, require the reporting of additional
information.

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

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

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

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

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

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

456.0392 Prescription labeling.—

(1) A prescription written by a practitioner who is authorized under the laws of this state to prescribe write prescriptions for drugs that are not listed as controlled
substances in chapter 893 but who is not eligible for a federal Drug Enforcement Administration number shall include that practitioner's name and professional license number. The pharmacist or dispensing practitioner must include the practitioner's name on the container of the drug that is dispensed. A pharmacist shall be permitted, upon verification by the prescriber, to document any information required by this section.

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

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

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

458.3265 Pain-management clinics.—

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

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

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

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

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

(qq) Failing to timely notify the department of the theft
of prescription blanks from a pain-management clinic or a breach
of a physician's electronic prescribing software other methods
for prescribing within 24 hours as required by s. 458.3265(3).
Section 5. Paragraph (e) of subsection (4) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—
(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—
(e) A supervising physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervising physician’s practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

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

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

3. The physician assistant must complete a minimum of 10 continuing medical education hours in the specialty practice in
which the physician assistant has prescriptive privileges with each licensure renewal. Three of the 10 hours must consist of a continuing education course on the safe and effective prescribing of controlled substance medications which is offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 credit or designated by the American Academy of Physician Assistants as a Category 1 credit.

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

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

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

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

459.0137 Pain-management clinics.—

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

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

Section 7. Paragraph (ss) of subsection (1) of section 459.015, Florida Statutes, is amended to read:
459.015  Grounds for disciplinary action; action by the board and department.—

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

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

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

459.022  Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

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

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant and must inform the patient that the patient has the right to see the physician before a prescription is prescribed or dispensed by the physician assistant.
2. The supervising physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

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

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

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

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

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

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