HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 431 Practice of Physician Assistants
SPONSOR(S): Professions & Public Health Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Professions & Public Health Subcommittee		Rahming	McElroy

SUMMARY ANALYSIS

Physician Assistants (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.

PCS for HB 431 revises the practice acts for PAs in chs. 458 and 459. The bill:

- Specifies which PA programs are approved for PA licensure and amends PA licensure and licensure renewal requirements;
- Authorizes PAs to authenticate any document with their signature, certification, stamp, verification, affidavit, or endorsement if the document may also be authenticated by a physician's signature, certification, stamp, verification, affidavit or endorsement;
- Removes the prohibition on PAs prescribing psychiatric medications for those under 18 years of age;
- Removes the restriction on the number of licensed PAs a physician may supervise at any one time;
- Removes the requirement that a PA notify a patient that he or she has the right to see a physician prior to the PA prescribing or dispensing a prescription;
- Authorizes PAs to procure medications and medical devices, with exceptions;
- Authorizes PAs to supervise allopathic and osteopathic medical assistants;
- Authorizes PAs to directly bill and receive payment from third-party payors for the services they deliver;
- Removes obsolete language relating to prescriber numbers;
- Removes the requirement for a licensed PA to notify the DOH in writing within 30 days of employment or after any change in his or her supervising physician; and
- Removes the requirement that PA licensure applicants seeking prescribing authority provide course transcripts.

The bill has an insignificant, negative fiscal impact on the DOH, which can be absorbed within current resources.

The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Physician Assistants

Physician Assistants (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.

Council on Physician Assistants

The Council consists of five members including 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 PAs appointed by the Surgeon General.[1] The appointed physicians must be physicians who supervise physician assistants in their practice. The Council is responsible for:[2]

- Making recommendations to the 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 safety in the PAs' clinical practices;
- Denying, restricting, or placing conditions on the license of PAs who fail to meet the licensing requirements; and
- Establishing a formulary of medicinal drugs that PAs may not prescribe.[3]

Licensure and Regulation of PAs

An applicant for a PA license must apply to the DOH, and the DOH must issue a license to a person certified by the Council as having met all of the following requirements:[4]

- Is at least 18 years old;
- Obtained a passing score an entry-level examination approved by the boards, including, but not limited to those examinations administered by the National Commission on Certification of Physician Assistants;
- Completed the application form and paid the applicable application fee;
- Completed the an approved PA training program accredited by a specified organization[5] or community college that has met specified criteria;[6]
- Acknowledged any prior felony convictions;
- Acknowledged any previous revocation or denial of licensure in any state;
- Provided 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; and
- Submitted to a background screening and have no disqualifying offenses.[7]

[1] Ss. 458.347(9) and 459.022(9), F.S. 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.
[2] *Id*.
[3] S. 458.347(4)(f), F.S.
[4] Ss. 458.347(7) and 459.022(7), F.S.
[5] The Commission on Accreditation of Allied Health Programs or its successor organization. *Id*.
[6] S. 458.347(6), F.S.
[7] S. 456.0135, F.S.

The DOH may issue a temporary license to a recent approved program graduate who expects to take the first National Commission on Certification of Physician Assistants administered examination available for registration after the applicant's graduation.[8] If an applicant has completed all licensure requirements and is awaiting the next scheduled meeting of the Council, the DOH may issue up to two temporary licenses to practice.[9] The temporary license expires 30 days after an applicant receives his or her scores of the proficiency examination and authorizes an applicant who has passed the examination to be granted permanent licensure.[10] Applicants who fail the examination can no longer hold a temporary license, unless they reapply for a 1-year extension of the temporary license.[11]

Within 30 days after gaining employment as a PA, licensed PAs must provide written notice with specified information to the DOH or after any subsequent changes in the supervising physician. PAs must renew their licenses biennially. During each biennial renewal cycle PAs must complete 100 hours of continuing medical education (CME) or must demonstrate current certification issued by the National Commission on Certification of Physician Assistants.[12] To maintain certification, PAs must also take a recertification examination every 10 years.[13]

PA Education

PA education programs are typically three years and award master's degrees.[14] Many programs require students to have health care experience as a condition for admission.[15] PA students receive classroom training in:[16]

- Anatomy;
- Physiology;
- Biochemistry;
- Pharmacology;
- Physical diagnosis;
- Pathophysiology;
- Microbiology;
- Clinical laboratory science;
- Behavioral science; and
- Medical Ethics.

A PA student must also complete approximately 2,000 hours of clinical rotations, with an emphasis on primary care in ambulatory clinics, physician offices, and acute or long-term care facilities.[17] A PA student's rotation could also include family medicine, internal medicine, obstetrics and gynecology, pediatrics, general surgery, emergency medicine, or psychiatry.[18]

PA Scope of Practice

[8] Ss. 458.347(7) and 459.002(7), F.S.
[9] *Id*.
[10] *Id*.
[11] *Id*.
[12] Ss. 458.347(7)(c) and 459.022(7)(c), F.S.
[13] National Commission on Certification of Physician Assistants, *Maintaining Certification*, https://www.nccpa.net/CertificationProcess (last visited Feb. 15, 2021).
[14] American Academy of PAs, *Become a PA*, https://www.aapa.org/career-central/become-a-pa/ (last visited Feb. 15, 2021).
[15] *Id*.
[16] *Id*.
[17] *Id*.
[18] *Id*.

PAs may only practice under the direct or indirect supervision of an allopathic or osteopathic physician 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 may not supervise more than four PAs at any time and may not be required to review and cosign charts or medical records prepared by a PA under their supervision.[21] The supervising physician is also responsible and liable for any acts or omissions of the PA.[22]

The Boards have established by rule that "responsible supervision" of a PA means the ability of the supervising physician to responsibly exercise control and provide direction over the services of the PA. Whether the supervision of a PA is adequate, is dependent upon the: [23]

- 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.

A supervising physician decides whether to permit a PA to perform a task or procedure under direct or indirect supervision[24] based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.[25] A supervising physician may delegate the authority for a fully licensed PA to:[26]

- Prescribe or dispense any medication used in the supervising physician's practice unless such medication is listed in the formulary[27] established by the Council and:
    - The PA notifies a patient that he or she has the right to see a physician prior to prescribing or dispensing a prescription;
    - The supervising physician notifies the DOH of his or her intention to delegate such authority; and
    - The PA completes a minimum of 10 CME hours in the specialty practice in which the PA has prescriptive privileges with each licensure renewal. Three of the 10 CME hours that allopathic PAs are required to take must consist of a continuing education course on the safe and effective prescribing of specified controlled substances. Presently, osteopathic PAs do not have this requirement. [28]
- 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.;[29] and

[19] Ss. 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] Rr. 64B8-30.012 and 64B15-6.010, F.A.C.
[21] Ss. 458.347(3) and 459.022 (3), F.S.
[22] Ss. 458.347(15) and 459.022(15), F.S.
[23] Rules 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.
[24] "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 easy availability of the supervising physician to the physician assistant, which includes the ability to communicate by telecommunications. The supervising physician must be within reasonable physical proximity. *See* Rr. 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.
[25] Rr. 64B8-30.012(2), F.A.C., and 64B15-6.010(2), F.A.C.
[26] Ss. 458.347(4)(e) and 459.022(4)(e), F.S.
[27] Ss. 458.347(4)(f), F.S., and 459.022(4)(e). The formulary in rr. 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. The rules also authorize PAs to order medicinal drugs for a hospitalized patient of the supervising physician and administer medicinal drugs under the direction and supervision of the physician.
[28] Ss. 458.347(4)(e) and 459.022(4)(e), F.S.
[29] Ss. 459.347(4)(f) and 459.022(4)(f), F.S. 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.

- Perform any other service that is not expressly prohibited in ch. 458, F.S., ch. 459, F.S., or the rules adopted thereunder.

Prescribing practitioners also required to register with the federal Drug Enforcement Administration. The DOH may also issue a prescriber number to the PA, which grants a PA authority for prescribing medicinal drugs authorized under current law.[30] The inclusion of the prescriber number creates a presumption that the PA is authorized to prescribe the medicinal drug and the prescription is valid.[31] Currently, when a PA indicates they want prescribing authority and submits the requisite training, rather than issue a "prescriber number," the DOH places a modifier on a PA's license so that its license verification page (shown below) indicates they are an authorized prescribing PA:[32]

Adverse Incident Reporting

A PA must report to the DOH any adverse incident occurring in an office practice setting within 15 days after the occurrence of the adverse incident.[33] The DOH must review each report to determine if discipline against the PA's license is warranted.[34]

An adverse incident in an office setting is defined as an event over which the PA could exercise control and which is associated with a medical intervention and results in one of the following patient injuries:[35]

- The death of a patient;
- Brain or spinal damage to a patient;
- The performance of a surgical procedure on the wrong patient;
- If the procedure results in death; brain or spinal damage; permanent disfigurement; the fracture or dislocation of bones or joints; a limitation of neurological, physical, or sensory functions; or any condition that required the transfer of a patient, the performance of:
    - A wrong-site surgical procedure;
    - A wrong surgical procedure; or
    - A surgical repair of damage to a patient resulting from a planned surgical procedure where the damage is not a recognized specific risk as disclosed to the patient and documented through the informed consent process;
- A procedure to remove unplanned foreign objects remaining from a surgical procedure; or
- Any condition that required the transfer of a patient to a hospital from an ambulatory surgical center or any facility or any office maintained by a physician for the practice of medicine which is not licensed under ch. 395, F.S.

Effect of Proposed Changes

PCS for HB 413 authorizes a PA to authenticate any document with their signature, certification, stamp, verification, affidavit, or endorsement if it may be so authenticated by a physician's signature, certification, stamp, verification, affidavit, or endorsement, including, but not limited to:

- Baker Act commitments;
- Do-not-resuscitate (DNR) orders or physician orders for the administration of life-sustaining procedures;
- Death certificates;
- School physicals;
- Medical evaluations for workers' compensation claims; and

[30] Ss. 459.347 (4)(e) and 459.022 (4)(e), F.S.
[31] *Id*.
[32] Email from Andrew Love, Director of Legislative Affairs, Florida Department of Health, RE: HB 431 Data Request, regarding issuance of prescriber numbers (Mar. 19, 2014).
[33] Ss. 458.351 and 459.026, F.S.
[34] Ss. 458.351(5) and 459.026(5), F.S.
[35] Ss. 458.351(4) and 459.026(4), F.S.

- Physical, occupational, speech therapy, home health services, or durable medical equipment orders.

The bill removes from current law:

- The prohibition on PAs prescribing psychiatric medications for those under 18 years of age;
- The restriction on the number of licensed PAs a physician may supervise at any one time;
- The requirement that a PA notify a patient that he or she has the right to see a physician prior to the PA prescribing or dispensing a prescription;
- The requirement for a licensed PA to notify the DOH in writing within 30 days of employment or after any change in his or her supervising physician; and
- Obsolete language relating to prescriber numbers.

The bill also authorizes PAs to:

- Procure drugs and medical devices, unless the medication is listed on the formulary;
- Supervise allopathic and osteopathic medical assistants; and
- Directly bill and receive payment from third-party payors for the services they deliver.

The bill maintains the requirement that the Council recommend PA education and training programs to the Board of Medicine or the Board of Osteopathic Medicine for approval, but specifies that the board may only approve PA programs accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. The bill also amends the examination type that a PA is required to pass to obtain licensure, moving from an entry-level examination approved by the boards to the PANCE examination administered by the National Commission on Certification of Physician assistants or its successor entity.

The bill maintains the current age requirement for a PA applicant and adds additional licensure requirements including:

- Graduating from an approved program;
    - Specified graduation requirements must be met; and
- Obtaining a passing score on the Physician Assistant National Certifying Examination (PANCE) administered by the National Commission on Certification of Physician Assistants or its successor organization.

The bill removes the allopathic PA only requirement for 10 CME hours in the specialty practice in which the PA has prescriptive privileges and requires three of the 100 CME hours required biennially for all PA licensure renewal consist of a course on the safe and effective prescribing of specified controlled substances.

The bill provides an effective date of July 1, 2021.

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, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

The bill has an insignificant, negative fiscal impact on the DOH, which can be absorbed within current resources.

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. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES