

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 748

INTRODUCER: Senator Flores

SUBJECT: Physician Assistants

DATE: November 24, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Pre-meeting
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

Summary:

SB 748 authorizes a Physician’s Assistant (PA) to perform services related to his or her practice in accordance with his or her education and training as delegated by the supervising physician unless expressly prohibited under ch. 458, ch. 459, or the rules adopted under either chapter.

The bill creates and defines a “designated supervising physician.” A “designated supervising physician” means a physician designated by a facility or practice to be the primary contact and supervising physician for the PAs in a practice where PAs are supervised by multiple supervising physicians. The bill streamlines a PA’s reporting requirements to the Department of Health (DOH) with respect to multiple supervising physicians. The PA may report to DOH his or her designated supervising physician in lieu of the actual supervising physician(s), and the designated supervising physician will maintain a list of approved supervising physicians in the practice or facility. This list which would be available to DOH upon written request.

SB 748 also clarifies that a PA, with delegated prescribing authority, may use prescriptions in both paper and electronic form. The bill deletes obsolete provisions relating to PA examinations by the DOH in favor of national proficiency examinations. It streamlines and simplifies the PA licensure and application process by eliminating the requirement for letters of recommendation and substituting acknowledgments for sworn statements that required notarization.

I. Present Situation:

Supervision of Physician Assistants

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine (BOM). Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine

(BOOM). PAs are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.¹

PAs are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.² The BOM and the BOOM have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct³ and indirect⁴ supervision. These principles are required to recognize the diversity of both specialty and practice settings in which PAs are used.”⁵

A supervising physician’s decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁶ Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.⁷

The following duties are not permitted to be performed by a PA under indirect supervision:

- Routine insertion of chest tubes and removal of pacer wires or left atrial monitoring lines;
 - Performance of a cardiac stress testing;
 - Routine insertion of central venous catheters;
 - Injection of intrathecal⁸ medication without prior approval of the supervising physician;
 - Interpretation of laboratory tests, X-ray studies and EKG’s without the supervising physician interpretation and final review;
- Administration of general, spinal, and epidural anesthetics and only by physician assistants who graduated from Board-approved programs for the education of anesthesiology assistants.⁹

Current law allows a supervisory physician to delegate to a licensed PA the authority to prescribe or dispense any medication used in the physician’s practice, except controlled substances, general anesthetics, and radiographic contrast materials.¹⁰

¹ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a PA appointed by the State Surgeon General. (*See* ss. 458.347(9) and 459.022(9), F.S.)

² Sections 458.347(4) and 459.022(4), F.S.

³ “Direct supervision” requires the physician to be on the premises and immediately available. (*See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.)

⁴ “Indirect supervision” refers to the easy availability of the supervising physician to the PA, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (*See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)

⁵ Sections 458.347(4)(a) and 459.002(4)(a), F.S.

⁶ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

⁷ Sections 458.347(3) and 459.022(3), F.S.

⁸ Intrathecal means within a sheath; or through the theca of the spinal cord into the subarachnoid space. Miller-Keane Encyclopedia and Dictionary of Medicine, Nursing, and Allied Health, Seventh Edition. © 2003 by Saunders, an imprint of Elsevier, Inc. (last viewed Nov. 23, 2015) available at <http://medical-dictionary.thefreedictionary.com/intrathecal>.

⁹ Rules 64B8-30.012 and 64B15-6.010, F.A.C.

¹⁰ Sections 458.347(4)(e) and (f)1. and 459.022(4)(e), F.S.

A PA's licensure requirements are as follows:

- Is at least 18 years of age;
- Has graduated from an BOM or BOOM approved PA program¹¹ or its equivalent, or meets standards approved by the boards;
- Has passed a proficiency examination with an acceptable score established by the National Commission on Certification of Physician Assistants (NCCPA);
- Has completed the DOH application form¹² and remitted an application fee; and
- Has pass a criminal background check.

The PA application form requires among other things, two letters of recommendation and sworn statements, that require notarization, pertaining to prior felony convictions and any previous revocation or denial of licensure or certification in any state.

Renewal of a PA's license is biennial and contingent upon completion of certain continuing medical education requirements. A PA with delegated prescribing authority must submit a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the PA has prescriptive privileges.¹³

Section 458.347(7)(b), F.S., contains obsolete provisions relating to PA examinations by the DOH. The DOH no longer administers a PA examination for licensure as s. 456.017(1)(c)2., F.S., prohibits a board or department state-developed written examination if a national examination has been certified by the department. The current provision regarding foreign medical school trained unlicensed physicians who had not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who had been certified by the BOM as having met the requirements for licensure as a medical doctor by examination was only available from July 1, 1990 through June 30, 1991. The bill eliminates a temporary PA license valid until the receipt of scores from the examination of the National Commission on Certification of Physician Assistants. Because there is no department administered examination, the time table for notice and administration of a department administered examination is also obsolete.¹⁴

¹¹ The DOH, BOM and BOOM have delegated their responsibility to approve PA programs to the NCCPA who used the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) to accredit PA schools. The ARC-PA defines the standards for PA education and evaluating PA educational programs in the United States to ensure their compliance with those standards. The ARC-PA is an independent accrediting body and accredited programs located in institutions offering, associate, baccalaureate or master's degrees in conjunction with the PA credential awarded. See Accreditation Review Commission on Education for the Physician Assistants, Inc., available at <http://www.arc-pa.com/about/index.html> (last visited Nov. 6, 2015).

¹² The DOH PA licensure application must include: 1) a certificate of completion of a physician assistant training program specified in subsection (6); 2) a sworn statement of any prior felony convictions; 3) a sworn statement of any previous revocation or denial of licensure or certification in any state; 4) two letters of recommendation; and 5) a copy of course transcripts and a copy of the course description from the physician assistant's training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority. These documents must meet the evidence requirements for prescribing authority. Section 458.347(7)(a)(3), F.S.

¹³ Sections 458.347(4)(e)3. and 459.022(4)(e)3., F.S.

¹⁴ See the Florida Dep't of Health, *House Bill 375 Analysis*, p. 3 (Oct. 27, 2015) (on file with the Senate Committee on Health Policy).

All licensed PAs, as a condition of practice, must also, upon employment, or any subsequent change of employment, notify the DOH in writing¹⁵ within 30 days after starting of the following:

- Complete mailing address of all current practice locations;
- Name and license number of all supervising physicians, including whether M.D. or D.O., specialty of supervising physician, and date supervision began.¹⁶

Additionally, any subsequent change in the supervising physician must be communicated in writing to the DOH within 30 days after the change.

Board rules¹⁷ define a primary supervising physician as a physician licensed pursuant to ch. 458 or ch. 459, F.S., who assumes responsibility and legal liability for the services rendered by the PA at all times the PA is not under the supervision and control of an alternate supervising physician. An alternate supervising physician is defined as physician(s) licensed pursuant to ch. 458 or ch. 459, F.S., who assumes responsibility and legal liability for the services rendered by the PA while the physician assistant is under his or her supervision and control. A physician may not supervise more than four licensed physician assistants at any one time.¹⁸

Section 458.347(4)5, F.S., and s. 459.022(e)5., F.S., dealing with delegated prescribing authority, allow for the use of prescriptions in written form only.

II. Effect of Proposed Changes

SB 748 amends virtually identical provisions relating to physician assistants (PAs) in both the Medical Practice Act, ch.458, F.S., and the Osteopathic Medical Practice Act, ch. 459, F.S., similarly.

Affirmative Delegation Authority

The bill authorizes a PA to perform services related to his or her practice in accordance with his or her education and training as delegated by the supervising physician unless expressly prohibited under chapter 458, chapter 459, or rules adopted under either chapter. Providing a more direct expression concerning the practice authority a supervising physician may delegate might avoid recurring inquiries whether a physician may delegate to a PA various medical practice acts that are not specifically authorized in statute to be delegated.¹⁹ For further discussion of the recommended grammatical amendments, see the Technical Deficiencies section of this analysis.

¹⁵ Florida Dep't of Health, Form DH-MQA 2004, *Supervision Data Form* (rev. Aug. 2010) available at http://flboardofmedicine.gov/forms/frm_supervisiondata.pdf (last viewed Nov. 23, 2015).

¹⁶ Sections 458.347(7)(e) and 459.022(7)(d), F.S., and Rules 64B15-6.003 and 64B8-30.003, F.A.C.

¹⁷ Rules 64B8-30.001 and 64B15-6.001, F.A.C.

¹⁸ Sections 458.347(3) and 459.022(3), F.S.

¹⁹ See for example: Op. Att'y Gen. Fla. 2008-21 (2008) – Baker Act – Physician Assistants.

Designated Supervising Physician

Amendments to ss. 458.347(4)(e)5. and 459.002(4)(e)5., F.S., create and define a new type of supervising physician for PAs, the “designated supervising physician.” The bill gives a PA a choice of whether to report his or her supervising physician(s) or the designated supervising physician for a facility or practice. If the PA chooses the option of reporting only the designated supervising physician, a PA would no longer be required to report each physician who supervises him or her in a facility or practice employment situation and any changes to supervising physicians within 30 days of the change. This might be especially beneficial to the PA in employment situations where multiple physicians share multiple PAs at multiple facilities or practice locations to avoid disciplinary action for the failure to timely report upon a change in supervising physician.

It is unclear how the designated supervising physician’s role affects supervising physicians and alternate supervising physicians as established in rule. The addition of this role might hinder the DOH’s current ability to identify which physicians in a facility or practice setting are supervising which PAs at a particular facility or practice during any particular time frame during the PAs employment. Under the bill, in order for the DOH to obtain that information, the DOH is required to make a written request to the facility’s or practice’s designated supervising physician for a list of approved supervising physicians. The bill requires that the list must contain the name of all approved supervising physicians, each supervising physician’s practice area, and be up to date with respect to additions and terminations of physicians; however, there are no sanctions in the bill for not maintaining the list, not keeping it up to date, or not providing it to the DOH in a timely manner. Additionally, it is not apparent from the bill who approves supervising physicians, as used on lines 237 and 385, that are included on the list.

Form of Prescription

SB 748 amends ss. 458.347(4)(e)5. and 459.022(4)(e)5., F.S., to clarify that a PA, with delegated prescribing authority, may use prescriptions in both paper and electronic form. The prescription must comply with provisions in ss. 456.0392(1) and 456.42(1), F.S., which require identification of the PA, i.e., name and prescriber number, and other essential elements for dispensing such as name and strength of the drug, quantity prescribed, directions for use, date prescribed, and the prescriber’s signature. A reference to the requirements in ch. 499, F.S., the Florida Drug and Cosmetic Act, is removed. Section 499.007, F.S., addresses misbranded drugs or devices. This section lists elements for a label of a properly dispensed prescription drug so that it is not misbranded. Similar elements are enumerated, but it also includes the name of the patient for whom the drug was prescribed.

Licensure Efficiencies

SB 748 amends ss. 458.347(7)(a). and 459.022(7)(a)., F.S., to streamline and simplify the PA licensure and application process by eliminating the requirement for two letters of recommendation and substituting acknowledgments for sworn statements that required notarization.

The bill deletes obsolete provisions relating to PA examinations by the DOH in favor of national proficiency examinations. This language only appears in the Medical Practice Act in s. 458.347(7)(b), F.S.

Effective Date

The effective date of the bill is July 1, 2016.

III. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Applicants for licensure as a PA and PAs renewing their licenses will experience reduced costs and time savings due to the administrative efficiencies.

Physician Assistants may also avoid disciplinary action for missing the filing deadlines, whether intentionally or unintentionally, when changes in supervising physicians occur.

C. Government Sector Impact:

The DOH and medical boards may experience fewer investigations and probable cause hearings with fewer complaints relating to PAs missing filing deadlines associated with changes in supervising physicians. Additional resources may be required to monitor responsibilities of the designated supervising physician. Any cost savings or increased costs is indeterminate at this time.

V. Technical Deficiencies:

Grammatically, the bill language, “A licensed physician’s assistant may perform services related to his or her practice in accordance with his or her education and training as delegated by the supervising physician unless expressly prohibited under this chapter. . .” could be improved. The

paragraph in each practice act could be reworded to make it clear that a PA may perform services delegated by the supervising physician in the PA's practice in accordance with his or her education and training as follows:

Lines 85 through 89:

(4) A licensed physician assistant may perform services delegated by the supervising physician in the physician assistant's practice in accordance with his or her education and training unless expressly prohibited under this chapter, chapter 459, or rules adopted under this chapter or chapter 459.

Lines 323 – 327:

(g) A licensed physician assistant may perform services delegated by the supervising physician in the physician assistant's practice in accordance with his or her education and training unless expressly prohibited under this chapter, chapter 458, or rules adopted under this chapter or chapter 458.

Lines 71 - 73, and 309 - 311 could also be reworded to read:

5. The prescription may ~~must~~ be written or electronic but must be in a form that complies with ss. 456.0392(1), and 456.42(1) and chapter 499 . . .

This is more grammatically correct and tracks the amended language in ch. 459, F.S.

Lines 229-231 and 377-379 repeat the requirements in lines 216 – 220 and 365-369, respectively, relating to the requirement to notify the department of any subsequent change in the designated supervising physician within 30 days after the change.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 458.347 and 459.022.

VIII. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.