

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1561                      Medical Practice  
**SPONSOR(S):** Ritter  
**TIED BILLS:** None.                      **IDEN./SIM. BILLS:** None.

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Health Standards (Sub)</u>	_____	<u>Mitchell</u>	<u>Collins</u>
2) <u>Health Care</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

HB 1561 amends s. 458.348, F.S., to define the term "physician office practice setting" and provides increased restrictions on supervision of Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs) who practice outside the physician office practice setting. The bill provides that the intent of the bill is to protect the public from physician delegation of medical services to insufficiently trained practitioners when they are not under their immediate supervision.

The bill defines "physician office practice setting" as a business location where the physician delivers medical services, that is not a hospital, ambulatory surgical center, abortion clinic or other medical facility licensed by the Department of Health or Agency for Health Care Administration. The bill requires the physician to be physically present in the office at least 33 percent of its hours of operation. The office is not considered a physician practice setting during the time the physician is not present.

The bill establishes requirements for supervision of Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs) who practice outside the physician office practice setting of the supervising physician. The supervising physician must:

- Maintain no more than two supervisory relationships at any one time.
- Ensure that the ARNP or PA has been practicing within the medical specialty area for a minimum of four consecutive years before providing care outside the supervising physician's office practice setting.
- Practice at least half-time in the medical service community in which the ARNP or PA is performing.
- Delegate only tasks and procedures within the physician's practice and medical specialty area.
- Ensure that the ARNP or PA clearly identify that they are an ARNP or PA to the patient.
- Maintain a valid active Florida license and a valid federal controlled substance registry number.

The effective date of the bill is upon becoming law.

The bill amends provisions in ch. 458, F.S., that relate to Medical Doctors. The bill does not address the supervisory relationships of Osteopathic Physicians, licensed under ch. 459, F.S., who may also supervise ARNPs and PAs, nor Dentists, licensed under ch. 466, F.S., who may supervise ARNPs.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h1561.hc.doc  
**DATE:** March 14, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill expands the regulation of physicians who supervise Advanced Registered Nurse Practitioners and Physician Assistants and restricts the practice of the Advanced Registered Nurse Practitioners and Physician Assistants.

#### B. EFFECT OF PROPOSED CHANGES:

HB 1561 amends s. 458.348, F.S., to define the term "physician office practice setting" and provides increased restrictions on supervision of advanced registered nurse practitioners and physician assistants who practice outside the physician office practice setting. The bill provides that the intent of the bill is to protect the public from physician delegation of medical services to insufficiently trained practitioners when they are not under their immediate supervision.

The bill defines "physician office practice setting" as a business location where the physician delivers medical services, that is not a hospital, ambulatory surgical center, abortion clinic or other medical facility licensed by the Department of Health or Agency for Health Care Administration. The bill requires the physician to be physically present in the office at least 33 percent of its hours of operation. The office is not considered to be a physician practice setting during the time the physician is not present. The definition of physician office practice setting does not depend on whether or not the business is physician owned.

The bill establishes requirements for supervision of Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs) who practice outside the physician office practice setting of the supervising physician. The supervising physician must:

- Maintain no more than two supervisory relationships at any one time.
- Ensure that the ARNP or PA has been practicing within the medical specialty area for a minimum of four consecutive years before providing care outside the supervising physician's office practice setting.
- Practice at least half-time in the medical service community in which the ARNP or PA is performing.
- Delegate only tasks and procedures within the physician's practice and medical specialty area.
- Ensure that the ARNP or PA clearly identify that they are an ARNP or PA to the patient.
- Maintain a valid active Florida license and a valid federal controlled substance registry number.

The effective date of the bill is upon becoming law.

#### CURRENT SITUATION

Section 458.348, F.S., amended by the bill relates to formal supervisory relationships, standing orders, and established protocols; notice; and standards for Medical Doctors who supervise emergency medical technicians and paramedics, advanced registered nurse practitioners, and electrologists.

### **Physician Assistants (PAs)**

Physician Assistants (PAs) are licensed to conduct physical exams, diagnose and treat illnesses, order and interpret tests, counsel on preventive health care and assist in surgery with physician supervision. This includes filling out prescriptions under the physician's authority. PAs practice in the areas of primary care medicine (family medicine, internal medicine, pediatrics, and obstetrics and gynecology), as well in surgery and surgical subspecialties.

Because of the close working relationship PAs have with physicians, PAs are trained in intensive master level programs designed to complement physician training based on the medical model, and accredited by the Accreditation Review Commission on Education for the Physician Assistant. The average PA program curriculum is approximately 26 months long. Education consists of classroom and laboratory instruction in the basic medical and behavioral sciences (such as anatomy, pharmacology, pathophysiology, clinical medicine, and physical diagnosis), followed by clinical rotations in internal medicine, family medicine, surgery, pediatrics, obstetrics and gynecology, emergency medicine, and geriatric medicine.

Upon graduation, PAs take a national certification examination developed by the National Commission on Certification of Physician Assistants in conjunction with the National Board of Medical Examiners. To maintain their national certification, PAs must log 100 hours of continuing medical education every two years and sit for a recertification every six years.

### **Advanced Registered Nurse Practitioners (ARNPs)**

Advanced Registered Nurse Practitioners (ARNPs) are registered nurses with advanced master level training and clinical experience that enables them to diagnose and manage most common and many chronic illnesses, either independently or as part of a health care team. Training includes an intensive preceptorship under the direct supervision of a physician or an experienced nurse practitioner.

ARNPs are primary care providers who practice in ambulatory, acute and long term care settings, including: neonatology; nurse-midwifery; pediatrics; school health; family and adult health; women's health; mental health; home care; and geriatrics. A nurse practitioner provides some care previously offered only by physicians, including the ability to prescribe medications under conditions of a protocol established with a physician.

### **Comparison of Regulation and Supervision of Advanced Registered Nurse Practitioner and Physician Assistant Practice in Florida**

<b>Advanced Registered Nurse Practitioners</b>	<b>Physician Assistants</b>
<b>Statutory Authority</b>	
<ul style="list-style-type: none"><li>• Nurse Practice Act, ch. 464, F.S.</li></ul>	<ul style="list-style-type: none"><li>• Medical Practice Act, Ch. 458, F.S.</li><li>• Osteopathic Medical Practice Act, Ch. 459, F.S.</li></ul>
<b>Rules</b>	
<ul style="list-style-type: none"><li>• 64B8-35, F.A.C.</li><li>• In addition to the practice of nursing, ARNPs may perform acts of medical diagnosis, treatment, prescription and prevention, as approved by Joint Committee of Board of Medicine and Board of Nursing.</li><li>• The Board of Nursing develops rules approved by the Joint Committee.</li></ul>	<ul style="list-style-type: none"><li>• 64B8-30, F.A.C.</li><li>• All proposed rules must be approved by the Board of Medicine and the Board of Osteopathic Medicine.</li></ul>

<b>Supervision</b>	
<ul style="list-style-type: none"> <li>• General supervision under protocols filed with department.</li> </ul>	<ul style="list-style-type: none"> <li>• Direct supervision means in the building, on-site with the PA.</li> <li>• Indirect supervision means easy access by phone, beeper, etc.</li> </ul>
<ul style="list-style-type: none"> <li>• May be supervised by Allopathic and Osteopathic Physicians, and Dentists licensed under ch. 458, 459, and 466, F.S.</li> </ul>	<ul style="list-style-type: none"> <li>• May be supervised by Allopathic and Osteopathic Physicians licensed under ch. 458 and 459, F.S.</li> </ul>
<ul style="list-style-type: none"> <li>• Protocols filed annually with the Department of Health.</li> <li>• Protocols may include description of the nature of the practice, description of duties and management areas of the ARNP and duties of the physician.</li> </ul>	<ul style="list-style-type: none"> <li>• Protocols only required for County Health Departments.</li> </ul>
<ul style="list-style-type: none"> <li>• No restriction on number of ARNPs per physician.</li> </ul>	<ul style="list-style-type: none"> <li>• Physician may supervise only up to four PAs simultaneously.</li> </ul>
<b>Scope of Practice</b>	
<ul style="list-style-type: none"> <li>• Practice in specialty area.</li> <li>• Scope of practice may be limited by the supervising physician.</li> </ul>	<ul style="list-style-type: none"> <li>• PAs may be delegated tasks and procedures within scope of practice of supervising physician.</li> <li>• Direct or indirect supervision required.</li> </ul>

### **Current Level of Supervision**

#### **Statutory Provisions:**

- **Physician Assistants**--Section 458.347(3), F.S., requires that a physician may not supervise more than four licensed physician assistants at any one time. Each physician or group of physicians supervising a licensed physician assistant must be qualified in the medical areas performed by the physician assistant and are responsible and liable for the performance and acts and omissions of the physician assistant.
- **Advanced Registered Nurse Practitioners**—Section 464.003(c), F.S., provides that the advanced registered nurse practitioner may in addition to nursing diagnosis and nursing treatment perform medical diagnosis and treatment, prescription, and operation identified and approved by a joint committee appointed by the Board of Nursing and the Board of Medicine. Approved acts must be performed under general supervision and protocols established with a Medical Doctor, Osteopathic Physician, or Dentist licensed under ch. 458, 459, or 466, F.S. The protocols must identify the medical acts to be performed and the conditions for their performance.

#### **Administrative Rules:**

**Physician Assistants**--64B8-30.012, F.A.C., relating to Physician Assistant Performance, requires:

- A supervising physician shall delegate only tasks and procedures to the physician assistant which are within the supervising physician's scope of practice.
- The decision to permit the physician assistant 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.
- Prescribing, dispensing, or compounding medicinal drugs and final diagnosis are not permitted to be delegated to a PA, except where expressly authorized by statute.
- All tasks and procedures performed by the physician assistant must be documented in the appropriate medical record.

- During the initial six months of supervision of each physician assistant, all documentation in a medical chart must be reviewed, signed and dated by a supervising physician within seven days.
- After the initial six months of supervision, a supervising physician must review, sign and date all documentation in medical charts by a physician assistant, within 30 days.

**Advanced Registered Nurse Practitioners--64B8-35.002, F.A.C**—relating to Standards for Protocols, requires:

- An ARNP shall only perform medical acts of diagnosis, treatment, and operation pursuant to a protocol between the ARNP and a Florida-licensed Medical Doctor, Osteopathic Physician, or Dentist.
- General supervision by the physician or dentist is required unless rules set a different level of supervision for a particular act.
- The number of persons to be supervised shall be limited to insure that an acceptable standard of medical care is rendered, based on risk to patient, experience, setting and availability of the physician or dentist.
- A Collaborative Practice Agreement is required that identifies the duties of the ARNP and the physician or dentist, and the management areas for which the ARNP is responsible, including:
  - (a) Conditions for which therapies may be initiated,
  - (b) Treatments that may be initiated by the ARNP, depending on patient condition and judgment of the ARNP, and
  - (c) Drug therapies that the ARNP may prescribe, initiate, monitor, alter, or order.
- The protocol agreement between the ARNP and physician is required to be filed annually with the department yearly, and kept at the site of practice of each party to the protocol.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 458.348, F.S., relating to formal supervisory relationships to define the term "physician office practice setting" and provide increased restrictions on Medical Doctors who supervise Advanced Registered Nurse Practitioners and Physician Assistants who practice outside the physician office practice setting.

**Section 2.** Provides the act shall take effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
See Fiscal Comments.
2. Expenditures:  
See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions of the bill restrict to two, the total number of Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs) who may be supervised by a physician at any one time. Currently, there is no specified limit for ARNPs and supervision of PAs is limited to four. This will reduce the ability of these licensed health professionals to provide services, especially in public health clinics and rural areas.

The requirement that physician offices are not considered physician office practice settings when the physician is not present will limit the ability of physicians to use Advanced Registered Nurse Practitioners and Physician Assistants in their practices.

D. FISCAL COMMENTS:

A fiscal impact statement has not been received from the Department of Health. It can be expected that the provisions of the bill will increase the demands on the department to monitor the amount of time a physician is present in their office, and the level of supervision of ARNPs and PAs. It may lead to disciplinary actions that will increase expenditures from the Medical Quality Assurance Trust Fund.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rulemaking authority is provided in ch. 458, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill amends provisions of ch. 458, F.S., that relate to Medical Doctors. The bill does not address the supervisory relationships of Osteopathic Physicians, licensed under ch. 459, F.S., who can also supervise ARNPs and PAs, nor Dentists, licensed under ch. 466, F.S., who can supervise ARNPs.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES