HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 699 CS Health Care
SPONSOR(S): Negron and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1216

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Regulation Committee	7 Y, 4 N, w/CS	Bell	Mitchell
2) Health Care General Committee	10 Y, 0 N, w/CS	Ciccone	Brown-Barrios
3) Health & Families Council		Bell	Moore
4)			
5)			

SUMMARY ANALYSIS

HB 699 w/CS amends ss. 458.348 and 459.025, F.S., to provide increased physician supervision of Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs). The bill provides criteria regarding the number of offices a physician may supervise depending on the type of health care services offered in such offices, and exempts certain licensed facilities from the requirements of this bill.

The bill requires physicians who receive referrals to advise patients as to their attending physician. The bill also requires that physicians review initial patient records and provide such information regarding the patient's initial visit to the primary care provider. Further, the bill requires physicians to post a notice in their satellite offices regarding the availability hours within such offices.

The bill increases the requirements of the Board of Nursing to more actively review nurse protocols and to post these protocols on the ARNP's profile.

There is no fiscal impact associated with this bill.

The effective date of the bill is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill limits the total number of physician offices a physician may open based on the type of care provided to patients and specialty of the physician. The bill expands certain duties of the Board of Nursing to require more frequent review of nurse protocols.

B. EFFECT OF PROPOSED CHANGES:

HB 699 w/CS amends ss 458.348 and 459.025, F.S., to provide increased physician supervision of Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs) by stipulating the number and type of offices a physician may supervise. Certain licensed health care facilities would be exempt from the provisions of this bill. Specifically, creating section 459.025, F.S., establishes formal supervisory relationships, standing orders, and established protocols, notices and standards between Osteopathic physicians and emergency medical technicians or paramedics or advanced registered nurse practitioners and mirrors formal supervisory relationships established by physicians referenced in chapter 458.

The bill provides that a physician providing primary health care services may supervise no more than four offices in addition to the physician's primary office. A physician specialist may supervise no more than two offices in addition to the physician specialist's primary office. Dermatology offices other than the primary practice location, must submit the location of their satellite offices to the Board of Medicine.

The bill exempts certain facilities as follows:

- Facilities licensed pursuant to chapter 395;
- Facilities run in conjunction with a college of medicine or nursing or an accredited graduate medical or nursing education program;
- Nursing homes;
- Assisted living facilities;
- Continuing care facilities;
- Retirement communities;
- Rural health clinics;
- Homes for the elderly and disabled;
- Services provided in federal or state facilities.

The bill provides for additional patient information and requires physicians who receive referrals to advise patients as to their attending physician. The bill also requires that physicians review initial patient records and provide feedback regarding the patient's initial visit to the primary care provider, within 10 business days. Further, the bill requires physicians to post a notice in their satellite offices regarding the availability hours within such offices.

The bill increases the requirements of the Board of Nursing to more actively review nurse protocols and that protocols be included in the ARNP's profile.

PRESENT SITUATION

SUPERVISION STANDARDS

The health care professionals referenced in the bill are all regulated differently by statute and rule and have varied supervisory relationships with physicians.

Supervision Standards for Advanced Registered Nurse Practitioners

Nurses are regulated in their own practice act. Nurses are licensed and regulated by the Board of Nursing pursuant to part I of chapter 464, F.S. There are approximately 9,500 Advanced Registered Nurse Practitioners (ARNPs) in Florida.

ARNPs practice under a protocol with a supervising physician and are not required to be under direct supervision. There is no limit on the number of ARNPs that a physician may supervise at any one time. ARNPs may practice in locations without the supervising physician on premises.[1] A 2005 Florida Board of Nursing study determined that 90% of nursing protocols have one physician supervising one or two ARNPS. The study also concluded that less that 2% of nurse protocols have one physician supervising four or more ARNPs. Almost all, 99%, of the ARNPs and supervising physicians are located within the same metropolitan area (roughly a 50-mile radius of an urban center).[2]

ARNPs 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. The degree and method of supervision is determined by the ARNP and the supervisor, must be appropriate for prudent health care providers under similar circumstances, and must be specifically identified in a written protocol. Unless these rules set a different level of supervision for a particular act, general supervision is required.[3] The number of ARNPs to be supervised must be limited to insure that an acceptable standard of medical care is rendered in consideration of: risk to patient, educational preparation, specialty, and experience of parties to the protocol, complexity and risk of the procedures, practice setting, and availability of the supervisor.

Supervision Standards for Anesthesiologist Assistants (a form of specialty nursing)

Anesthesiologist Assistants or Certified Registered Nurse Anesthesiologists (CRNAs) are a specialized form of Advanced Registered Nurse Practitioner that requires a masters degree. CRNAs are licensed under part I of the Nurse Practice Act, chapter 464, F.S. Every CRNA must enter into a supervisory relationship with a physician or dentist; and must file a written protocol describing the relationship based on criteria set forth in chapters 458, 459, and 466, F.S. The supervising physician must only delegate tasks and procedures to the CRNA which are within the supervising physician's scope of practice, and the CRNAs can work in any setting that is within the scope of practice of the supervisor's practice. CRNAs personally administer 65% of all anesthetics given to patients each year in the United States.[4]

Under facility licensure requirements of s. 395.0191, F.S., CRNAs working in ambulatory surgery centers or hospitals must be supervised by a physician or a dentist.

Supervision Standards for Paramedics & Emergency Medical Technicians

Paramedics and emergency medical technicians are regulated under ch. 401, F.S., Medical Transportation and Services. They are also referenced in s. 458.348, F.S. There are approximately 18,000 paramedics and 28,000 emergency medical technicians (EMTs) in Florida. Each paramedic and EMT employed within an Emergency Medical Services (EMS) system must operate under the direct supervision of a physician medical director, or indirectly by standing orders and/or protocols.[5] Each EMS agency employs or contracts with a physician medical director to provide this medical oversight and quality assurance. The larger EMS providers in Florida have over 1,000 EMTs and paramedics on staff, all of them working under one medical director.

Medical directors must supervise and assume direct responsibility for the medical performance of the EMTs and paramedics, and must perform duties including advising, consulting, training, counseling, and overseeing of services. This includes appropriate quality assurance but does not include

[1] Rule 64B8-35, Florida Administrative Code.
[2] Florida Board of Nursing, Study of ARNP Protocols, November 1, 2005.
[3] The written protocol signed by all parties represents the mutual agreement of the supervising physician and the ARNP and must include information defined by Rule 64B9-4, Florida Administrative Code, and s. 458.348(2), F.S.
[4] American Association of Nurse Anesthetists, 2006.
[5] Chapter 64E-2, Florida Administrative Code.

administrative or managerial functions. Each medical director is required to establish a quality assurance committee to provide reviews of all EMTs and paramedics operating under the director's supervision.[6]

The Emergency Medical Services Advisory Council was created for the purpose of acting as the advisory body to the EMS program. The Council's role includes:

- Identify and make recommendations to the Department of Health (DOH) concerning the appropriateness of suggested changes to statute and administrative rules; and
- To provide technical support to DOH in the areas of EMS and trauma systems design, technology, drugs and dosages, medical protocols, training requirements, and other aspects of procedure.[7]

The Division of Emergency Medical Operations has noted that limiting the number of allied health practitioners that can practice under the authority of a single physician could significantly impact the daily operations of an EMS service. According to the Division, while the implementation of the bill alone would not directly impact the EMS community, the rule language required by the bill may have a tremendous impact on the way EMS is designed and operated statewide.

Supervision Standards for Physician Assistants

Physician assistants (PAs) are regulated under ss. 458.347 and 459.022, F.S. There are approximately 3,000 licensed PAs in Florida. PAs may practice under the direct or indirect supervision of an MD or DO. A physician may supervise up to four PAs at any one time and the supervising physician must be qualified in the medical treatment areas delegated to a PA.[8] The "primary supervising physician" assumes responsibility and legal liability for the services rendered by the PAs at all times. "Direct supervision" entails the physical presence of the supervising physician on the premises so that he or she is immediately available to the PA when needed. "Indirect supervision" requires reasonable proximity between the supervising physician and the PA and requires the ability to communicate by telecommunications.[9]

There is a Council on Physician Assistants that reports to the Board of Medicine. The Council's duties include:

- Recommendation of the licensure of PAs to the Department of Health (DOH); and
- Development of rules regulating the use of PAs by physicians (proposed rules submitted by the council must be approved by both medical and osteopathic boards).

The council is comprised of five members including three physicians appointed by the chairperson of the Board of Medicine, one physician appointed by the chairperson of the Board of Osteopathic Medicine, and a PA appointed by the secretary of the department or his or her designee. At least two of the members appointed to the council must be physicians who supervise PAs in their practice.[10]

BACKGROUND

[6] Section 401.265, F.S

[7] Section 401.245, F.S. The council has up to 15 members, and representatives include physicians, EMS administrators, paramedics, EMTs, emergency nurse, hospital administrators, air ambulance service representatives, educators, and laypersons who are in no way connected with emergency medical services and one of whom is a representative of the elderly. Ex officio members of the advisory council from state agencies include, but are not limited to, representatives from the Department of Education, the Department of Management Services, the State Fire Marshal, the Department of Highway Safety and Motor Vehicles, the Department of Transportation, and the Department of Community Affairs.

[8] Sections 458.347 and 459.022, F.S.

[9] Rules for Medical Practice, Chapter 64B8-30, Florida Administrative Code; Rules for Osteopathic Medicine, Chapter 64B15-6, Florida Administrative Code.

[10] Sections 458.347 and 459.022, F.S.

Scope of Practice Authority

Each year, the Florida Legislature hears bills and amendments to change the scope of practice and standards of existing professions. The legal authority to provide and be reimbursed for health care services is tied to state statutes generally referred to as *practice acts. Practice acts* establish professional "scopes of practice," and often differ from state to state. Legislative debate generally revolves around whether new or unregulated disciplines and occupations should be regulated and whether professions should be granted expanded practice authority.

Specialized Nursing Practice

Specialization in nursing dates from the early part of the twentieth century. Many specialty nursing programs require a master's degree and require additional state certification and licensure. Some of the primary nurse specialties are[11]:

- Critical Care;
- Nurse Anesthetists;
- Nurse Midwives;
- Public Health Nursing; and
- Nursing Education.

C. SECTION DIRECTORY:

Section 1. Amends s. 456.041, F.S., regarding practitioner profiles.

Section 2. Amends s. 458.348, F.S., to add a new s. 458.348 (4), F.S., regarding supervision of Advanced Registered Nurse Practitioners or Physician Assistants in medical offices other than the physician's primary practice location.

Section 3. Amends s. 459.025, F.S., to add a new s. 459.025 (1), F.S., regarding formal supervisory relationships, standing orders and established protocols, notice and standards regarding relationships between physicians and medical technicians or paramedics or advanced registered nurse practitioners.

Section 4. Amends s. 464.012(3), F.S., regarding certification of advanced registered nurse practitioners.

Section 5. Provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

[11] Nursing Health Care. 1992 May; 13(5):254-9

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:

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

2. Other:

B. RULE-MAKING AUTHORITY:

The Department of Health has sufficient rulemaking authority to implement the provision in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2006 the Health Care Regulation Committee adopted five amendments and reported the bill favorably.

Amendment 1: Inserted a list of facilities and practitioners who are exempt from the rules promulgated as a result of the bill.
Amendment 2 & 3: Specified that rural health networks are exempt from the rules promulgated as a result of the bill.
Amendment 4 & 5: Specified that the rules promulgated as a result of the bill would apply equally to physician assistants and advanced registered nurse practitioners.

On March 22, 2006, the Health Care General Committee adopted a strike-all amendment and reported the bill favorably. The amendment:

- Removed the rule making authority of the Board of Medicine;
- Requires physician supervision of Advanced Registered Nurse Practitioners (ARNPs) and Physician Assistants (PAs);
- Provides the number and types of offices a physician may supervise.
- Provides exemptions for certain licensed health care facilities;
    - Facilities licensed pursuant to chapter 395;
    - Facilities run in conjunction with a college of medicine or nursing or an accredited graduate medical or nursing education program;
    - Nursing homes;
    - Assisted living facilities;
    - Continuing care facilities;

    - Retirement communities;
    - Rural health clinics;
    - Homes for the elderly and disabled;
    - Services provided in federal or state facilities.

- Establishes standards regarding formal supervision by physicians of emergency medical technicians or paramedics;
- Provides additional, and in some cases new, patient information and requires physicians who receive referrals to advise patients as to their attending physician;
- Requires that physicians review initial patient records and provide such information regarding the patient's initial visit to the primary care provider;
- Requires physicians to post a notice in their satellite offices regarding the physicians' available hours.
- Requires the Board of Nursing to review nurse protocols and include these protocols in the ARNP's profile.

The analysis is drafted to the committee substitute.