

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 363 Physician Assistants

SPONSOR(S): Health Care Appropriations Subcommittee; Health & Human Services Quality Subcommittee; Kreegel

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	13 Y, 0 N, As CS	Holt	Calamas
2) Health Care Appropriations Subcommittee	13 Y, 0 N, As CS	Clark	Pridgeon
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill changes the compositions of the Board of Medicine and the Board of Osteopathic Medicine within the Department of Health (DOH) by substituting one of the non-physician members with a physician assistant (PA) who is authorized to prescribe certain drugs and worked in the state for at least four years. The bill stipulates that the change to the composition of the boards will only occur as vacancies occur.

In addition, the bill removes the requirements that a PA obtain an additional license authorizing them to prescribe. The bill does not alter any current authority granted to PAs to prescribe. PAs will continue to be issued a prescriber number granting them authority to prescribe certain drugs. DOH will continue to process requests for a prescriber number and determine if the PA qualifies for the prescribing privilege. However, the ability for a physician assistant to apply for a prescriber number is limited to two specific timeframes: initial licensure and biennial licensure renewal. The bill requires physician assistants to provide certain documentation as evidence of eligibility for a prescriber number.

The bill will have an insignificant fiscal impact that the department can absorb within existing resources.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Medical Quality Assurance

The Department of Health (DOH), Division of Medical Quality Assurance (MQA), regulates health care practitioners to ensure the health, safety and welfare of the public. Currently, MQA supports licensure and disciplinary activities for 43 professions and 37 types of facilities/establishments, and works with 22 boards and 6 councils.

Boards

A board is a statutorily created entity that is authorized to exercise regulatory or rulemaking functions within the MQA.¹ Boards are responsible for approving or denying applications for licensure and making disciplinary decisions on whether a practitioner practices within the authority of their practice act. Practice acts refer to the legal authority in state statute that grants a profession the authority to provide services to the public. The range of disciplinary actions taken by a board includes citations, suspensions, reprimands, probations, and revocations.

Physician Assistants

Physician Assistant (PA) regulations are located in the respective physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs).² Specifically, sections 458.347(7), and 459.022(7), F.S., govern the licensure of PAs in Florida. Currently there are a total of 5,108 in-state active licensed PAs in Florida, of which 4,214 are authorized to prescribe medicinal drugs.³ Last year, 465 PAs submitted initial applications for a prescribing license.⁴

To become licensed as a PA, individuals must submit an application, remit a \$100 application fee, and remit a \$200 initial licensure fee.⁵ The cost to renew a PA license is \$275 biennially. In addition to the standard PA license, PAs who wish to prescribe drugs must obtain additional certification. There is an initial application fee of \$200 and an initial certification fee of \$200 that is required to become certified as a prescribing PA.⁶ The cost to renew a prescribing certification is \$150 biennially.⁷ Additionally, PAs seeking prescribing authority are required to complete an approved 3-hour course in prescriptive practice that covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs.⁸ Prescribing PAs are required to keep on file a written agreement with their supervising physician that outlines which medicinal drugs the physician assistant is authorized to prescribe.⁹ Furthermore, PAs may not prescribe any drug that is listed on the prohibited formulary and may only prescribe drugs that are used in the supervisory physician's practice.¹⁰

Physician assistants may only practice under the supervision of a MD or DO with whom they have a clinical relationship. A supervising physician may only delegate tasks and procedures to the physician

¹ S. 456.001, F.S.

² Chs. 458 and 459, F.S.

³ Email on file with the Health & Human Services Quality Committee Subcommittee from the Department of Health staff dated November 10, 2011.

⁴ Department of Health, Bill Analysis, Economic Statement and Fiscal Note of HB 363 (dated November 15, 2011).

⁵ 64B8-30.019 and 64B15-6.013, F.A.C

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Ss. 458.347 and 459.022, F.S.; 64B8-30.003 and 64B15-6.003, F.A.C

⁹ Ss. 458.347 and 459.022, F.S.; 64B8-30.007 and 64B15-6.0038, F.A.C.

¹⁰ *Ibid.*

assistant that are within the supervising physician's scope of practice.¹¹ All tasks and procedures performed by the PA must be documented in the appropriate medical record. It is the responsibility of the supervising doctor to ensure that the PA is knowledgeable and skilled in performing the tasks and procedures assigned. The supervising physician is responsible and liable for any and all acts of the PA and may only supervise up to four PAs at any time.¹²

PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Florida Board of Medicine for PAs licensed under Chapter 458, F.S., or the Florida Board of Osteopathic Medicine for PAs licensed under Chapter 459, F.S.

Council on Physician Assistants

The Council created in 1995 to recommend the licensure requirements (including educational and training requirements) for PAs, establish a list of formulary drugs that a PA may not prescribe, and develop rules for the use of PAs by physicians to ensure that the continuity of supervision is maintained in each practice setting throughout the state.¹³ The Council does not discipline PAs. Disciplinary action is the responsibility of either the Board of Medicine or the Board of Osteopathic Medicine. The Council is composed of five members:¹⁴

- Three MDs, one of which must supervise PAs and all are appointed by the chair of the Board of Medicine and are members of the board;
- A licensed DO who is appointed by the chair of the Board of Osteopathic Medicine and a member of the board; and
- A licensed PA who is appointed by the State Surgeon General.

Board of Medicine and Board of Osteopathic Medicine

The Board of Medicine is composed of fifteen members as follows:¹⁵

- Twelve licensed physicians;
- Two Florida residents who are not licensed as health care practitioners; and
- A licensed risk manager.

One of the fifteen board members must be over the age of sixty. The twelve MDs must be in good standing with the state, engaged in the practice or teaching of medicine for at least four years immediately preceding their appointment. Three of the twelve MDs must be:¹⁶

- A member of the faculty at a medical school within the state;
- A member must be in private practice and a full-time staff member at a statutory teaching hospital¹⁷; or
- A member must be a graduate of a foreign medical school.

The Board of Osteopathic Medicine is composed of seven members as follows:¹⁸

- Five members of the board must be licensed DOs in good standing in this state who are residents of this state and who have been engaged in the practice of osteopathic medicine for at least 4 years immediately prior to their appointment;
- Two members must be citizens of the state who are not, and have never been, licensed health care practitioners; and

¹¹ Rule 64B8-30.012(1), F.A.C., and Rule 64B15-6.010(1), F.A.C.

¹² S. 458.347(3), F.S., and s. 459.022(3), F.S.

¹³ S. 458.347(9), F.S., and s. 459.02 2(9), F.S.

¹⁴ *Ibid.*

¹⁵ S. 458.307(1), F.S.

¹⁶ S. 458.307(2), F.S.

¹⁷ Any Florida hospital officially affiliated with an accredited Florida medical school which exhibits activity in the area of graduate medical education as reflected by at least seven different graduate medical education programs accredited by the Accreditation Council for Graduate Medical Education or the Council on Postdoctoral Training of the American Osteopathic Association. The hospital must also have 100 or more full-time equivalent resident physicians. The Agency for Health Care Administration determines which hospitals meet this definition.

¹⁸ S. 459.004, F.S.

- At least one of the seven members must be 60 years of age or older.

All of the board members are appointed by the Governor and confirmed by the Senate. Members of the boards are provided periodic training in the grounds for disciplinary action, actions the board and the DOH may take, changes in rules and statutes, and relevant judicial and administrative decisions. Board members are appointed to probable cause panels and participate in disciplinary decisions.

Probable Cause Panels

Sections 458.331 and 459.015, F.S., provide grounds for disciplinary action to the Board of Medicine and Board of Osteopathic Medicine. Additionally, these sections stipulate that a probable cause panel must include one member who is a licensed PA when the board is convened to consider an alleged disciplinary action against a PA.¹⁹ The PA member is appointed by the Council and may only hear cases before the probable cause panel that involve PAs. However, if the appointed PA member is not present when the probable cause panel convenes, the panel may still consider and vote on the disciplinary case.

In 2011, there were 417 legally sufficient complaints against licensed physician assistants that were reviewed by the probable cause panel and 102 of those complaints were reviewed by the full board to determine disciplinary action.²⁰

Effects of Proposed Changes

The bill changes the composition of the Board of Medicine and the Board of Osteopathic Medicine by substituting one of the non-physician members with a PA who is authorized to prescribe certain medicinal drugs and has worked in the state for at least 4 years. The bill stipulates that the change to the composition of the boards will only occur as vacancies occur. Currently, the appointment terms of two of the three non-licensed health care practitioners on the Board of Medicine expire on October 31, 2013 and the third expires on October 31, 2014.²¹ Both of the non-licensed health care practitioner member slots on the Board of Osteopathic Medicine are vacant.²²

In addition, the bill removes the requirements that PAs obtain an additional license authorizing them to prescribe. The bill does not alter any current authority granted to PAs to prescribe. PAs will continue to be issued a prescriber number granting them authority to prescribe certain drugs, and DOH will continue to process requests for a prescriber number and determine if the PA qualifies for the prescribing privilege. However, this process will occur at initial licensure and biennial licensure renewal, rather than at any time. The bill requires physician assistants to provide certain documentation as evidence of eligibility for a prescriber number.

The boards will have to modify administrative rules and the licensure database will have to be modified to delete the license to prescribe.

B. SECTION DIRECTORY:

Section 1. Amends s. 458.307, F.S., relating to the Board of Medicine.

Section 2. Amends s. 458.347, F.S., relating to Physician Assistants.

Section 3. Amends s. 459.004, F.S., relating to Board of Osteopathic Medicine.

Section 4. Amends s. 459.022, F.S., relating to Physician Assistants.

Section 5. Provides that changes to the board membership are implemented as vacancies occur.

Section 6. Provides an effective date of July 1, 2012.

¹⁹ Ss. 458.331(10) and 459.015(10), F.S.

²⁰ Florida Department of Health, Division of Medical Quality Assurance, 2010-2011 Annual Report, *available at*: <http://www.doh.state.fl.us/mqa/reports.htm> (last viewed November 10, 2011) and email correspondence with Department of Health staff on file with the Health & Human Services Quality Committee (dated November 15, 2011).

²¹ Department of Health, Bill Analysis, Economic Statement and Fiscal Note of HB 363 (dated November 15, 2011).

²² *Ibid.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may decrease revenue to the Medical Quality Assurance Trust Fund as a result of limiting the timeframe that a PA may apply for a prescribing number to initial licensure and biennial licensure renewal. The amount of revenue decrease is indeterminate, but estimated to be insignificant.

2. Expenditures:

DOH will incur non-recurring costs for rulemaking, which current budget authority is adequate to absorb.

DOH will be required to modify the application for prescribing authority and update the COMPAS licensure system to implement the provisions of this bill. This work can be performed within current department resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None identified.

2. Expenditures:

None identified.

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 department has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2011, the Health & Human Services Quality Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute.

The strike-all differs from the bill as filed by limiting the time that a physician assistant may receive a prescriber number to initial licensure and biennial renewal. This limitation ensures that processing of prescribing authority requests occur concurrently with initial and renewal licensure applications, rather than separately, and minimizes the fiscal impact to DOH from the loss of separate prescribing fees.

Furthermore the strike-all requires a physician assistant to submit transcripts and the course description of an approved pharmacotherapeutics course he or she completed to prove eligibility for a prescriber number. At biennial renewal a physician assistant must submit evidence that he or she has completed a 3-hour continuing education course in prescriptive practice as is required in current law.

This analysis is drafted to the committee substitute.

On February 21, 2012, the Health Care Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute to the committee substitute. The amendment restores current statutory language providing for a fee up to \$200 for physician assistants to obtain a prescribing number at initial licensure.

The analysis is drafted to the committee substitute to the committee substitute.