HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/HB 625	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Health Quality Subcommittee; Renuart and others	118 **Y's**	0 **N's**
COMPANION BILLS:	(CS/CS/SB 398)	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/HB 625 passed the House on April 30, 2013 as CS/CS/SB 398. The bill deletes current law, which states that a supervisory physician is not prohibited from delegating to a physician assistant (PA) the authority to order medications for a hospitalized patient. The bill rewords the same provision to affirmatively authorize, within the Medical Practice Act and the Osteopathic Practice Act, a supervisory physician to delegate to a PA the authority to order medications for the physician's patient during the patient's care in a hospital, ambulatory surgical center, or mobile surgical facility. Moreover, the bill states that an order is not considered a prescription in this context and expressly states that a PA may order any medication under the direction of the supervisory physician while working in such a facility.

The bill does not appear to have a fiscal impact on state or local governments.

The bill was approved by the Governor on June 7, 2013, ch. 2013-127, L.O.F., and will become effective on July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

PRESENT SITUATION

Physician Assistants

A physician assistant (PA) is a person licensed to perform medical services in the specialty areas in which he or she has been trained enabling them to perform health care tasks delegated by a supervising physician.[1] Currently, there are a total of 5,348 in-state, active licensed PAs in Florida.[2]

PA regulations are located in the respective physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs), because PAs may only practice under the supervision of a MD or DO.[3] Specifically, sections 458.347(7) and 459.022(7), F.S., govern the licensure of PAs. PAs are regulated by the Florida Council on Physician Assistants (council) in conjunction with 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.

Physician Assistant Council

The council was created in 1995 to recommend the licensure requirements (including educational and training requirements) for PAs, establish a formulary of drugs that PAs are prohibited to 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.[4] The council does not discipline PAs. Disciplinary action is the responsibility of either the Board of Medicine or the Board of Osteopathic Medicine (boards).

Supervising Physician

A PA practices under the delegated authority of a supervising physician. A physician supervising a PA must be qualified in the medical area(s) in which the PA is to perform health care tasks and is responsible and liable for the performance and acts and omissions of the PA.[5] A physician is not allowed to supervise more than four PAs at any one time.[6]

Supervision is defined to mean the responsible supervision and control that requires the easy availability or physical presence of the physician for consultation and direction of actions performed by a PA.[7] Easy availability is defined to include telecommunication. The relevant board is delegated the authority to establish by rule what constitutes responsible supervision.

Responsible supervision, defined by rule, is the ability of the supervising physician to responsibly exercise control and provide direction over the services or tasks performed by the PA.[8] In providing supervision, the supervising physician is required to periodically review the PA's performance.

In determining whether supervision is adequate, the following factors are to be considered:[9]

- The complexity of the task;

[1] Section 458.347(1), F.S.
[2] Department of Health, 2011-2012 Medical Quality Assurance Annual Report.
[3] Chapters 458 and 459, F.S.
[4] Sections 458.347(9) and 459.02 2(9), F.S.
[5] Section 458.347(3), F.S. and Rule 64B8-30.012, F.A.C.
[6] *Id*.
[7] Section 458.347 (1)(f), F.S.
[8] Rule 64B8-30.001, F.A.C.
[9] *Id*.

- The risk to the patient;
- The background, training and skill of the PA;
- The adequacy of the direction in terms of its form;
- The setting in which the tasks are performed;
- The availability of the supervising physician;
- The necessity for immediate attention; and
- The number of other persons that the supervising physician must supervise.

The respective board is authorized to adopt by rule the general principles that supervising physicians must use in developing the scope of practice of a PA under "direct" and "indirect" supervision. The principles are to take into consideration the diversity of the specialty and the practice setting.

Direct supervision refers to the physical presence of the supervising physician on the premises so that the supervising physician is immediately available to the PA when needed; whereas, indirect supervision refers to the easy availability of the supervising physician, such that the supervising physician must be within reasonable physical proximity.[10]

The decision to permit the PA 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.[11] Additionally, it is the responsibility of the supervising physician to be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.

Delegated Tasks

Determination of the final diagnosis must be performed by the supervising physician, and may not be delegated to a PA.[12]

Per rule, the following tasks are not permitted to be performed under indirect supervision:[13]

- Routine insertion of chest tubes and removal of pacer wires or left atrial monitoring lines.
- Performance of cardiac stress testing.
- Routine insertion of central venous catheters.
- Injection of intrathecal 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; this may be performed under direct supervision only by PA who graduated from a board-approved anesthesiology assistants program.

However, a supervisory physician may delegate to a PA the authority:

- To prescribe or dispense any medicinal drug used in the supervisory physician's practice.[14]
- To order medicinal drugs for a hospitalized patient of the supervising physician.
- To administer a medicinal drug under the direction and supervision of the physician.[15]

The negative formulary established by the PA Council prohibits a PA from prescribing controlled substances (Schedule I-V), general anesthetics, and radiographic contrast material.[16]

[10] Rules 64B8-30.012 and 64B15-6.010, F.A.C.
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] Sections 458.347(4)(e) and 459.022(4)(e), F.S.
[15] Rules 64B8-30.008 and 64B15-6.0038.

Interpreting the Scope of Practice of a PA

Through the years there have been a few Attorney General Advisory Opinions and declaratory statements written to clarify whether a PA is authorized to perform certain health care tasks. For example, in 2008, there was an inquiry as to whether a PA could refer a patient for involuntary evaluation pursuant to the Baker Act.[17] The advisory opinion concluded that a PA may refer a patient for involuntary evaluation, provided that the PA has experience regarding the diagnosis and treatment of mental and nervous disorders and such tasks are within the supervising physician's scope of practice. More recently in 2010, the Attorney General's Office opined whether a PA may order controlled substances in a hospital setting. The opinion concluded that the boards and the council have consistently held that a supervisory physician may delegate to a PA the authority to order controlled substances for patients in hospital settings.[18] The opinions reflect confusion over the interpretation of the terms "prescribing" and "ordering," which have been misinterpreted to be synonymous. Neither term is defined within the Medical Practice Act or the Osteopathic Medical Practice Act.

An "order" is a term of art generally used in a hospital or institutional setting where an authorized practitioner orders a medication for an inpatient rather than prescribes a medication.[19]

Under the Florida Pharmacy Act, a "prescription" includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist.[20] The Florida Comprehensive Drug Abuse and Prevention and Control Act, ch. 893, F.S., provides a similar definition for the term "prescription."[21]

EFFECT OF PROPOSED CHANGES

The bill deletes current law that is written in the negative tense to "not prohibit" a supervisory physician from delegating to a PA the authority to order medications for a hospitalized patient. The bill rewords the same provision in the affirmative, to authorize a supervisory physician to delegate to a PA the authority to order medications for a supervisory physician's patient during the patient's care in a hospital, ambulatory surgical center, or mobile surgical facility. Additionally, the bill states that an order is not considered a prescription in this context. Lastly, the bill expressly states that a PA may order any medication under the direction of the supervisory physician while working in such a facility.

The bill makes the aforementioned changes to both the Medical Practice Act, under ch. 458, F.S., and the Osteopathic Practice Act, under ch. 459, F.S.

---

[16] Sections 458.347(4)(f) and 459.022(4)(f), F.S.
[17] Florida Attorney General advisory Legal Opinion (AGO 2008-31) dated May 30, 2008, on file with the Health Quality Subcommittee staff.
[18] Florida Attorney General Office correspondence to Patricia Draper, Esq., dated August 25, 2010, on file with the Health Quality Subcommittee staff.
[19] See for example: 42 C.F.R. 482.23(c) relating to Conditions of Participation for Hospitals under Medicare, Standard: Preparation and administration of drugs and Rule 64B16-28.602, F.A.C., relating to the rules of the Board of Pharmacy for Institutional Class II Dispensing.
[20] Section 465.003(14), F.S.
[21] Section 893.02(22), F.S.

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.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.