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 1230
INTRODUCER:	Senator Hays
SUBJECT:	Physician Assistants
DATE:	April 1, 2014
REVISED:	04/02/14

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Stovall	HP	**Fav/1 amendment**
2.			AP	
3.			RC	

Please see Section IX. for Additional Information:

AMENDMENTS - Significant amendments were recommended

I. Summary:

SB 1230 increases the number of physician assistants a medical or osteopathic physician may supervise by raising the cap from four to eight. The bill makes minor modifications to the documentation a physician assistant must submit for licensure.

II. Present Situation:

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants are regulated by both boards. Licensure of physician assistants is overseen jointly by the boards through the Council on Physician Assistants.[1]

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.[2] Supervision is responsible supervision and requires the easy availability, which includes telecommunication, or physical presence of the licensed physician for consultation and direction of the actions of the physician assistant.[3] In

[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 physician assistant appointed by the State Surgeon General. (ss. 458.348(9) and 459.022(9), F.S.).
[2] Sections 458.347(4) and 459.022(4), F.S.
[3] *See* ss. 458.347(2)(f) and 459.022(2)(f), F.S.

determining whether supervision is responsible, board rules direct that the following be considered:[4]

- The complexity of the task;
- The risk to the patient;
- The background, training and skill of the physician assistant;
- 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 people who the supervising physician must supervise.

Each physician or group of physicians supervising a licensed physician assistant must be qualified in the medical areas in which the physician assistant is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the physician assistant.[5]

The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physicians must use in developing the scope of practice of the physician assistant under both direct[6] and indirect[7] supervision. A supervising physician's decision to permit a physician assistant 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 physician assistant is knowledgeable and skilled in performing the tasks and procedures assigned.[8]

Rules of both boards prohibit the delegation of prescribing, dispensing, or compounding of medicinal drugs, or final diagnosis, except as authorized by statute.[9] Current law allows a supervisory physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.[10] Rules of both boards also prohibit the performance of specified duties under indirect supervision, including certain invasive procedures, performance of stress testing, interpretation of laboratory tests, X-rays, and EKGs, and administration of certain anesthetics.[11]

Currently, a physician practicing in Florida may not supervise more than four licensed physician assistants at any one time.[12] Supervision of physician assistants varies nationwide. Some states

[4] Rules 64B8-30.001(3) and 64B15-6.001(3), F.A.C.
[5] Sections 458.347(3) and 459.022(3), F.S.
[6] "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.)
[7] "Indirect supervision" requires the physician to be within reasonable physical proximity. (Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.
[8] Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.
[9] *Id.*
[10] Sections 458.347(4)(e) and (f)1 and 459.022(4)(e)., F.S. *But see* ss. 458.347(4)(g) and 459.022(4)(f), F.S., which allow the ordering of controlled substances.
[11] *See supra* note 8.
[12] Sections 458.347(3) and 459.022(3), F.S.

apply straight ratios. Some have no restriction. Some establish a higher or no ratio in designated practice settings, e.g. hospital or correctional facility. Some establish lower ratios for supervision offsite (remote locations) and some allow physicians to petition for a higher ratio. In general, ten states have no restriction;[13] nine states allow supervision of up to two physician assistants;[14] six states allow supervision of up to three physician assistants;[15] and 16 states (plus the District of Columbia) allow supervision of up to four physician assistants.[16] The six remaining states have ratios up to 1 to 7.[17]

There are 61,033 medical physicians, 6,045 osteopathic physicians, and 6,628 physician assistants who are licensed and currently authorized to practice in the state.[18] The 2013 Physician Workforce Annual Report[19] found that 69.7 percent of the state's licensed physicians are actively practicing in Florida. Nearly two-thirds (61.7 percent) of the actively practicing physicians are age 50 or older and 13.2 percent plan to retire in the next 5 years.[20] A study released in 2011 projects that nationwide the number of physician assistants with an active clinical practice will increase by 72 percent during the 15-year period: 2010 – 2025.[21]

III. Effect of Proposed Changes:

The bill increases from four to eight the number of physician assistants a medical or osteopathic physician may supervise.

The bill changes the format for the DOH to obtain certain information required for licensure. Instead of submitting a signed affidavit related to certain continuing medical education, the bill requires the physician assistant to certify compliance with the continuing medical education requirement. The requirement that statements related to prior felony convictions or license revocation or denial be sworn is also removed. The DOH indicates that most practice acts do not require sworn or notarized statements. By signing the application, the applicant certifies to the

[13] Alabama, Arkansas, Maine, Montana, New Mexico, North Carolina, North Dakota, Rhode Island, Tennessee, and Vermont.
[14] Hawaii, Indiana, Kansas, Kentucky, Louisiana, Ohio, Mississippi, Oklahoma, and Wisconsin.
[15] Idaho, Missouri, Nevada, South Carolina, West Virginia, and Wyoming.
[16] Arizona, California, Colorado, Delaware, Florida, Georgia, Maryland, Michigan, Nebraska, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, South Dakota, and Utah.
[17] American Academy of Physician Assistants, *State Laws and Regulations Governing the Number of Physician Assistants that One Physician may [sic] Supervise* (August 2013) (on file with the Senate Committee on Health Policy).
[18] *See* Fla. Dept. of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan FY 2012-2013*, 8 - 9, *available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-12-13.pdf (last visited Mar. 5, 2014). These numbers reflect practitioners with in-state active, out-of-state active, and military active licenses.
[19] Sections 458.3191 and 459.0081, F.S., require DOH to administer a survey in conjunction with physician licensure renewal. Physician participation is mandatory. Results of the survey are provided to the Governor, President of the Senate, and Speaker of the House and shared with the Physician Workforce Advisory Council.
[20] Fla. Dept. of Health, *2013 Physician Workforce Annual Report*, 3 (Nov. 2013), *available at* http://www.floridahealth.gov/provider-and-partner-resources/community-health-workers/physician-workforce-development-and-recruitment/physicianworkforce13final.pdf (last visited Mar. 5, 2014).
[21] Roderick S. Hooker, PhD, PA et al., *Predictive Modeling the Physician Assistant Supply: 2010 – 2025*, PUBLIC HEALTH REPORTS, (Sept. – Oct. 2011), *available at* http://www.publichealthreports.org/issueopen.cfm?articleID=2714 (last visited Mar. 5, 2014). The study used the cohort of physician assistants who graduated in 2010 as the basis for projecting supply. Growth was projected based on physician assistant program growth and the number of graduates adjusted for attrition.

truth of its content, thus the additional requirement of sworn or notarized statements add burden to the applicant without adding benefit to the licensure process.[22] An applicant who lies on an application is subject to disciplinary action, thus the DOH has recourse.[23] The bill also eliminates the requirement for a physician assistant to submit two letters of recommendation. This requirement exists currently only for physician assistants and anesthesiology assistants and not for any other regulated health care practitioner. Likewise, it does not add value to the licensure application review.[24]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Physicians may experience greater efficiency in operations, resulting in cost savings, by utilizing more physician assistants in their operations. For SB 1230 to have a substantial impact on the market; however, Florida would need to see a significant increase in the number of licensed physician assistants.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

[22] Conversation with Allison M. Dudley, J.D., Executive Director, Fla. Board of Medicine, Fla. Dept. of Health (Mar. 26, 2014).
[23] Sections 458.331(1)(a) and 459.015(1)(a), F.S.
[24] *Supra* note 22.

VII. Related Issues:

Current law requires applicants for licensure as physician assistants to indicate on the application whether the applicant has a prior felony conviction. The law does not, however, require the applicant to provide a set of fingerprints. As a result, the DOH does not have a means to verify the information or receive immediate notification of any subsequent criminal violations, except when notified by the physician assistant or third party. The Legislature may wish to address this issue.

Sections 458.347 and 459.022, F.S., establish limitations on the prescribing authority that may be delegated to a physician assistant and conditions under which the physician assistant may exercise that authority. Both sections require that prescriptions be written in a form that complies with ch. 499, F.S. Part I of ch. 499 is the "Florida Drug and Cosmetic Act." The act is administered and enforced by the Department of Business and Professional Regulation "to prevent fraud, adulteration, misbranding, or false advertising in the preparation, manufacture, repackaging, or distribution of drugs, devices, and cosmetics."[25] The act does not contain standards for prescriptions. Those requirements are in ss. 456.42(1), and 456.0392(1), F.S. In addition, the prescribing language in current law also contemplates written prescriptions, only. Many prescriptions are now submitted electronically.

Both issues may be addressed by an amendment that strikes lines 58–59 and 152-153 and inserts:

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) ~~chapter 499~~ and must contain, in addition to the . . .

The bill raises the cap on the number of physician assistants a physician may supervise, but does not address the number of offices a physician may supervise. Depending on the intent of the bill, the office supervision caps may create a barrier to its full implementation in some settings.[26]

VIII. Statutes Affected:

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

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

[25] Section 499.002(2), F.S.
[26] A primary care physician may supervise up to five offices, a specialty physician may supervise up to three offices, and a physician providing certain dermatological services may supervise two offices. The law provides exceptions. *See* ss. 458.348(4) and 459.024(3), F.S.

B. Amendments:

Barcode 630784 by Health Policy on April 1, 2014:
The amendment revises the bill to reduce the number of physician assistants that a physician may supervise to five and to except physicians who supervise offices that provide certain dermatological services from the higher limit. The amendment requires physician assistants applying for initial licensure on or after January 1, 2015, to submit to background screening and requires physician assistants to provide the DOH with contact information of a designated supervising physician, if supervised by more than one. The amendment also corrects a reference to the required elements for a prescription and allows prescriptions by a physician assistant to be filed in electronic form. Finally, the amendment authorizes a physician who is not board eligible or board certified in dermatology to supervise two offices, in addition to the physician's primary office, where nonablative aesthetic services are provided if the services are performed by a physician assistant who has completed a specified number of hours of education and clinical training in the physiology of the skin, laser technology, and injectables. (WITH TITLE AMENDMENT)

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