

1 A bill to be entitled
 2 An act relating to electronic prescribing; amending s.
 3 456.42, F.S.; requiring all prescriptions for
 4 medicinal drugs to be electronically generated and
 5 transmitted to the pharmacist filling the
 6 prescription; providing an exception; deleting a
 7 requirement that a health care practitioner may only
 8 electronically transmit prescriptions for certain
 9 drugs; prohibiting electronic prescribing from
 10 interfering with a patient's freedom to choose a
 11 pharmacy; providing definitions; authorizing
 12 electronic prescribing software to display information
 13 regarding a payor's formulary under certain
 14 circumstances; repealing s. 456.43, F.S., relating to
 15 electronic prescribing for medicinal drugs; amending
 16 ss. 458.347 and 459.022, F.S.; conforming provisions
 17 to changes made by the act; providing an effective
 18 date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 456.42, Florida Statutes, is amended to
 23 read:

24 456.42 ~~Written~~ Prescriptions for medicinal drugs.—
 25 (1) Any ~~A written~~ prescription for a medicinal drug issued

26 | by a health care practitioner licensed by law to prescribe such
27 | drug must be electronically generated and transmitted to the
28 | pharmacist filling the prescription. ~~legibly printed or typed so~~
29 | ~~as to be capable of being understood by the pharmacist filling~~
30 | ~~the prescription; must contain the name of the prescribing~~
31 | ~~practitioner, the name and strength of the drug prescribed, the~~
32 | ~~quantity of the drug prescribed, and the directions for use of~~
33 | ~~the drug; must be dated; and must be signed by the prescribing~~
34 | ~~practitioner on the day when issued. However, A prescription~~
35 | ~~that is electronically generated and transmitted must contain~~
36 | the name of the prescribing practitioner, the name and strength
37 | of the drug prescribed, the quantity of the drug prescribed in
38 | numerical format, and the directions for use of the drug and
39 | must contain the date and an electronic signature, as defined in
40 | s. 668.003(4), by the prescribing practitioner only on the day
41 | issued.

42 | (2) A prescriber may issue a written prescription only
43 | when electronic prescribing is not available due to a temporary
44 | technological or electrical failure that is not reasonably
45 | within the control of the prescribing practitioner, and such
46 | failure is documented in the patient record. A written
47 | prescription for a controlled substance listed in chapter 893
48 | must have the quantity of the drug prescribed in both textual
49 | and numerical formats, must be dated in numerical,
50 | month/day/year format, or with the abbreviated month written

51 out, or the month written out in whole, and must be either
52 written on a standardized counterfeit-proof prescription pad
53 produced by a vendor approved by the department ~~or~~
54 ~~electronically prescribed as that term is used in s. 408.0611.~~
55 As a condition of being an approved vendor, a prescription pad
56 vendor must submit a monthly report to the department that, at a
57 minimum, documents the number of prescription pads sold and
58 identifies the purchasers. The department may, by rule, require
59 the reporting of additional information.

60 (3) Electronic prescribing may not interfere with a
61 patient's freedom to choose a pharmacy. ~~A health care~~
62 ~~practitioner licensed by law to prescribe a medicinal drug who~~
63 ~~maintains a system of electronic health records as defined in s.~~
64 ~~408.051(2)(a), or who prescribes medicinal drugs as an owner, an~~
65 ~~employee, or a contractor of a licensed health care facility or~~
66 ~~practice that maintains such a system and who is prescribing in~~
67 ~~his or her capacity as such an owner, an employee, or a~~
68 ~~contractor, may only electronically transmit prescriptions for~~
69 ~~such drugs. This requirement applies to such a health care~~
70 ~~practitioner upon renewal of the health care practitioner's~~
71 ~~license or by July 1, 2021, whichever is earlier, but does not~~
72 ~~apply if:~~

73 (a) ~~The practitioner and the dispenser are the same~~
74 ~~entity;~~

75 (b) ~~The prescription cannot be transmitted electronically~~

76 ~~under the most recently implemented version of the National~~
77 ~~Council for Prescription Drug Programs SCRIPT Standard;~~

78 ~~(c) The practitioner has been issued a waiver by the~~
79 ~~department, not to exceed 1 year in duration, from the~~
80 ~~requirement to use electronic prescribing due to demonstrated~~
81 ~~economic hardship, technological limitations that are not~~
82 ~~reasonably within the control of the practitioner, or another~~
83 ~~exceptional circumstance demonstrated by the practitioner;~~

84 ~~(d) The practitioner reasonably determines that it would~~
85 ~~be impractical for the patient in question to obtain a medicinal~~
86 ~~drug prescribed by electronic prescription in a timely manner~~
87 ~~and such delay would adversely impact the patient's medical~~
88 ~~condition;~~

89 ~~(e) The practitioner is prescribing a drug under a~~
90 ~~research protocol;~~

91 ~~(f) The prescription is for a drug for which the federal~~
92 ~~Food and Drug Administration requires the prescription to~~
93 ~~contain elements that may not be included in electronic~~
94 ~~prescribing;~~

95 ~~(g) The prescription is issued to an individual receiving~~
96 ~~hospice care or who is a resident of a nursing home facility; or~~

97 ~~(h) The practitioner determines that it is in the best~~
98 ~~interest of the patient, or the patient determines that it is in~~
99 ~~his or her own best interest, to compare prescription drug~~
100 ~~prices among area pharmacies. The practitioner must document~~

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101 ~~such determination in the patient's medical record.~~

102 (4) Electronic prescribing software may not use any means
103 or permit any other person to use any means to influence,
104 through economic incentives or otherwise, the prescribing
105 decision of a prescribing practitioner or his or her agent at
106 the point of care, including but not limited to, means such as
107 advertising, instant messaging, pop-up ads, or similar means
108 triggered by or in specific response to the input, selection, or
109 act of a prescribing practitioner or his or her agent in
110 prescribing a certain medicinal drug or directing a patient to a
111 certain pharmacy. For purposes of this subsection, the term:

112 (a) "Point of care" means the time at which a prescribing
113 practitioner or his or her agent prescribes any medicinal drug.

114 (b) "Prescribing decision" means a prescribing
115 practitioner's or his or her agent's decision to prescribe any
116 medicinal drug.

117 (5) Electronic prescribing software may display
118 information regarding a payor's formulary if nothing is designed
119 to preclude or make more difficult the selection of any
120 particular pharmacy by a patient or the selection of any certain
121 medicinal drug by a prescribing practitioner or his or her
122 agent.

123
124 The department, in consultation with the Board of Medicine, the
125 Board of Osteopathic Medicine, the Board of Podiatric Medicine,

126 the Board of Dentistry, the Board of Nursing, and the Board of
127 Optometry, may adopt rules to implement this subsection.

128 Section 2. Section 456.43, Florida Statutes, is repealed.

129 Section 3. Paragraph (e) of subsection (4) of section
130 458.347, Florida Statutes, is amended to read:

131 458.347 Physician assistants.—

132 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

133 (e) A supervising physician may delegate to a fully
134 licensed physician assistant the authority to prescribe or
135 dispense any medication used in the supervising physician's
136 practice unless such medication is listed on the formulary
137 created pursuant to paragraph (f). A fully licensed physician
138 assistant may only prescribe or dispense such medication under
139 the following circumstances:

140 1. A physician assistant must clearly identify to the
141 patient that he or she is a physician assistant and inform the
142 patient that the patient has the right to see the physician
143 before a prescription is prescribed or dispensed by the
144 physician assistant.

145 2. The supervising physician must notify the department of
146 his or her intent to delegate, on a department-approved form,
147 before delegating such authority and of any change in
148 prescriptive privileges of the physician assistant. Authority to
149 dispense may be delegated only by a supervising physician who is
150 registered as a dispensing practitioner in compliance with s.

151 465.0276.

152 3. The physician assistant must complete a minimum of 10
153 continuing medical education hours in the specialty practice in
154 which the physician assistant has prescriptive privileges with
155 each licensure renewal. Three of the 10 hours must consist of a
156 continuing education course on the safe and effective
157 prescribing of controlled substance medications which is offered
158 by a statewide professional association of physicians in this
159 state accredited to provide educational activities designated
160 for the American Medical Association Physician's Recognition
161 Award Category 1 credit or designated by the American Academy of
162 Physician Assistants as a Category 1 credit.

163 4. The department may issue a prescriber number to the
164 physician assistant granting authority for the prescribing of
165 medicinal drugs authorized within this paragraph upon completion
166 of the requirements of this paragraph. The physician assistant
167 is not required to independently register pursuant to s.
168 465.0276.

169 5. The prescription ~~may be in paper or electronic form but~~
170 must comply with ss. 456.0392(1) and 456.42 ~~ss. 456.0392(1) and~~
171 ~~456.42(1)~~ and chapter 499 and must contain, in addition to the
172 supervising physician's name, address, and telephone number, the
173 physician assistant's prescriber number. Unless it is a drug or
174 drug sample dispensed by the physician assistant, the
175 prescription must be filled in a pharmacy permitted under

176 chapter 465 and must be dispensed in that pharmacy by a
177 pharmacist licensed under chapter 465. The inclusion of the
178 prescriber number creates a presumption that the physician
179 assistant is authorized to prescribe the medicinal drug and the
180 prescription is valid.

181 6. The physician assistant must note the prescription or
182 dispensing of medication in the appropriate medical record.

183 Section 4. Paragraph (e) of subsection (4) of section
184 459.022, Florida Statutes, is amended to read:

185 459.022 Physician assistants.—

186 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

187 (e) A supervising physician may delegate to a fully
188 licensed physician assistant the authority to prescribe or
189 dispense any medication used in the supervising physician's
190 practice unless such medication is listed on the formulary
191 created pursuant to s. 458.347. A fully licensed physician
192 assistant may only prescribe or dispense such medication under
193 the following circumstances:

194 1. A physician assistant must clearly identify to the
195 patient that she or he is a physician assistant and must inform
196 the patient that the patient has the right to see the physician
197 before a prescription is prescribed or dispensed by the
198 physician assistant.

199 2. The supervising physician must notify the department of
200 her or his intent to delegate, on a department-approved form,

201 before delegating such authority and of any change in
202 prescriptive privileges of the physician assistant. Authority to
203 dispense may be delegated only by a supervising physician who is
204 registered as a dispensing practitioner in compliance with s.
205 465.0276.

206 3. The physician assistant must complete a minimum of 10
207 continuing medical education hours in the specialty practice in
208 which the physician assistant has prescriptive privileges with
209 each licensure renewal.

210 4. The department may issue a prescriber number to the
211 physician assistant granting authority for the prescribing of
212 medicinal drugs authorized within this paragraph upon completion
213 of the requirements of this paragraph. The physician assistant
214 is not required to independently register pursuant to s.
215 465.0276.

216 5. The prescription ~~may be in paper or electronic form but~~
217 must comply with ss. 456.0392(1) and 456.42 ~~ss. 456.0392(1) and~~
218 ~~456.42(1)~~ and chapter 499 and must contain, in addition to the
219 supervising physician's name, address, and telephone number, the
220 physician assistant's prescriber number. Unless it is a drug or
221 drug sample dispensed by the physician assistant, the
222 prescription must be filled in a pharmacy permitted under
223 chapter 465, and must be dispensed in that pharmacy by a
224 pharmacist licensed under chapter 465. The inclusion of the
225 prescriber number creates a presumption that the physician

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226 | assistant is authorized to prescribe the medicinal drug and the
227 | prescription is valid.

228 | 6. The physician assistant must note the prescription or
229 | dispensing of medication in the appropriate medical record.

230 | Section 5. This act shall take effect July 1, 2021.