

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

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

22
23 Section 1. Section 456.42, Florida Statutes, is amended to
24 read:
25 456.42 ~~Written~~ Prescriptions for medicinal drugs.—

26 (1) Any ~~A written~~ prescription for a medicinal drug issued
 27 by a health care practitioner licensed by law to prescribe such
 28 drug must be telephonically transmitted or electronically
 29 generated and transmitted to the pharmacist filling the
 30 prescription. ~~legibly printed or typed so as to be capable of~~
 31 ~~being understood by the pharmacist filling the prescription;~~
 32 ~~must contain the name of the prescribing practitioner, the name~~
 33 ~~and strength of the drug prescribed, the quantity of the drug~~
 34 ~~prescribed, and the directions for use of the drug; must be~~
 35 ~~dated; and must be signed by the prescribing practitioner on the~~
 36 ~~day when issued. However, A prescription that is electronically~~
 37 ~~generated and transmitted~~ must contain the name of the
 38 prescribing practitioner, the name and strength of the drug
 39 prescribed, the quantity of the drug prescribed in numerical
 40 format, and the directions for use of the drug and must contain
 41 the date and an electronic signature, as defined in s.
 42 668.003(4), by the prescribing practitioner only on the day
 43 issued.

44 (2) A prescriber may issue a written prescription only in
 45 the following circumstances:

46 (a) Electronic prescribing is not available due to a
 47 temporary technological or electrical failure that is not
 48 reasonably within the control of the prescribing practitioner,
 49 and such failure is documented in the patient record;

50 (b) The prescription is issued to a patient receiving

51 services in a free clinic as described in s. 766.1115, or a
 52 patient receiving services for which the health care
 53 practitioner will not bill or accept payment; or

54 (c) The prescription is issued to a patient of an
 55 emergency department of a hospital.

56
 57 A written prescription for a controlled substance listed in
 58 chapter 893 must have the quantity of the drug prescribed in
 59 both textual and numerical formats, must be dated in numerical,
 60 month/day/year format, or with the abbreviated month written
 61 out, or the month written out in whole, and must be ~~either~~
 62 written on a standardized counterfeit-proof prescription pad
 63 produced by a vendor approved by the department ~~or~~
 64 ~~electronically prescribed as that term is used in s. 408.0611.~~
 65 As a condition of being an approved vendor, a prescription pad
 66 vendor must submit a monthly report to the department that, at a
 67 minimum, documents the number of prescription pads sold and
 68 identifies the purchasers. The department may, by rule, require
 69 the reporting of additional information.

70 (3) Electronic prescribing may not interfere with a
 71 patient's freedom to choose a pharmacy. ~~A health care~~
 72 ~~practitioner licensed by law to prescribe a medicinal drug who~~
 73 ~~maintains a system of electronic health records as defined in s.~~
 74 ~~408.051(2)(a), or who prescribes medicinal drugs as an owner, an~~
 75 ~~employee, or a contractor of a licensed health care facility or~~

76 | ~~practice that maintains such a system and who is prescribing in~~
77 | ~~his or her capacity as such an owner, an employee, or a~~
78 | ~~contractor, may only electronically transmit prescriptions for~~
79 | ~~such drugs. This requirement applies to such a health care~~
80 | ~~practitioner upon renewal of the health care practitioner's~~
81 | ~~license or by July 1, 2021, whichever is earlier, but does not~~
82 | ~~apply if:~~

83 | ~~(a) The practitioner and the dispenser are the same~~
84 | ~~entity;~~

85 | ~~(b) The prescription cannot be transmitted electronically~~
86 | ~~under the most recently implemented version of the National~~
87 | ~~Council for Prescription Drug Programs SCRIPT Standard;~~

88 | ~~(c) The practitioner has been issued a waiver by the~~
89 | ~~department, not to exceed 1 year in duration, from the~~
90 | ~~requirement to use electronic prescribing due to demonstrated~~
91 | ~~economic hardship, technological limitations that are not~~
92 | ~~reasonably within the control of the practitioner, or another~~
93 | ~~exceptional circumstance demonstrated by the practitioner;~~

94 | ~~(d) The practitioner reasonably determines that it would~~
95 | ~~be impractical for the patient in question to obtain a medicinal~~
96 | ~~drug prescribed by electronic prescription in a timely manner~~
97 | ~~and such delay would adversely impact the patient's medical~~
98 | ~~condition;~~

99 | ~~(e) The practitioner is prescribing a drug under a~~
100 | ~~research protocol;~~

101 ~~(f) The prescription is for a drug for which the federal~~
102 ~~Food and Drug Administration requires the prescription to~~
103 ~~contain elements that may not be included in electronic~~
104 ~~prescribing;~~

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

107 ~~(h) The practitioner determines that it is in the best~~
108 ~~interest of the patient, or the patient determines that it is in~~
109 ~~his or her own best interest, to compare prescription drug~~
110 ~~prices among area pharmacies. The practitioner must document~~
111 ~~such determination in the patient's medical record.~~

112 (4) Electronic prescribing software may not use any means
113 or permit any other person to use any means to influence,
114 through economic incentives or otherwise, the prescribing
115 decision of a prescribing practitioner or his or her agent at
116 the point of care, including but not limited to, means such as
117 advertising, instant messaging, pop-up ads, or similar means
118 triggered by or in specific response to the input, selection, or
119 act of a prescribing practitioner or his or her agent in
120 prescribing a certain medicinal drug or directing a patient to a
121 certain pharmacy. For purposes of this subsection, the term:

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

124 (b) "Prescribing decision" means a prescribing
125 practitioner's or his or her agent's decision to prescribe any

126 medicinal drug.

127 (5) Electronic prescribing software may display
 128 information regarding a payor's formulary if nothing is designed
 129 to preclude or make more difficult the selection of any
 130 particular pharmacy by a patient or the selection of any certain
 131 medicinal drug by a prescribing practitioner or his or her
 132 agent.

133
 134 The department, in consultation with the Board of Medicine, the
 135 Board of Osteopathic Medicine, the Board of Podiatric Medicine,
 136 the Board of Dentistry, the Board of Nursing, and the Board of
 137 Optometry, may adopt rules to implement this section ~~subsection~~.

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

139 Section 3. Paragraph (e) of subsection (4) of section
 140 458.347, Florida Statutes, is amended to read:

141 458.347 Physician assistants.—

142 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

143 (e) A supervising physician may delegate to a fully
 144 licensed physician assistant the authority to prescribe or
 145 dispense any medication used in the supervising physician's
 146 practice unless such medication is listed on the formulary
 147 created pursuant to paragraph (f). A fully licensed physician
 148 assistant may only prescribe or dispense such medication under
 149 the following circumstances:

150 1. A physician assistant must clearly identify to the

151 patient that he or she is a physician assistant and inform the
152 patient that the patient has the right to see the physician
153 before a prescription is prescribed or dispensed by the
154 physician assistant.

155 2. The supervising physician must notify the department of
156 his or her intent to delegate, on a department-approved form,
157 before delegating such authority and of any change in
158 prescriptive privileges of the physician assistant. Authority to
159 dispense may be delegated only by a supervising physician who is
160 registered as a dispensing practitioner in compliance with s.
161 465.0276.

162 3. The physician assistant must complete a minimum of 10
163 continuing medical education hours in the specialty practice in
164 which the physician assistant has prescriptive privileges with
165 each licensure renewal. Three of the 10 hours must consist of a
166 continuing education course on the safe and effective
167 prescribing of controlled substance medications which is offered
168 by a statewide professional association of physicians in this
169 state accredited to provide educational activities designated
170 for the American Medical Association Physician's Recognition
171 Award Category 1 credit or designated by the American Academy of
172 Physician Assistants as a Category 1 credit.

173 4. The department may issue a prescriber number to the
174 physician assistant granting authority for the prescribing of
175 medicinal drugs authorized within this paragraph upon completion

176 of the requirements of this paragraph. The physician assistant
177 is not required to independently register pursuant to s.
178 465.0276.

179 5. The prescription ~~may be in paper or electronic form but~~
180 must comply with ss. 456.0392(1) and 456.42 ~~ss. 456.0392(1) and~~
181 ~~456.42(1)~~ and chapter 499 and must contain, in addition to the
182 supervising physician's name, address, and telephone number, the
183 physician assistant's prescriber number. Unless it is a drug or
184 drug sample dispensed by the physician assistant, the
185 prescription must be filled in a pharmacy permitted under
186 chapter 465 and must be dispensed in that pharmacy by a
187 pharmacist licensed under chapter 465. The inclusion of the
188 prescriber number creates a presumption that the physician
189 assistant is authorized to prescribe the medicinal drug and the
190 prescription is valid.

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

193 Section 4. Paragraph (e) of subsection (4) of section
194 459.022, Florida Statutes, is amended to read:

195 459.022 Physician assistants.—

196 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

197 (e) A supervising physician may delegate to a fully
198 licensed physician assistant the authority to prescribe or
199 dispense any medication used in the supervising physician's
200 practice unless such medication is listed on the formulary

201 created pursuant to s. 458.347. A fully licensed physician
202 assistant may only prescribe or dispense such medication under
203 the following circumstances:

204 1. A physician assistant must clearly identify to the
205 patient that she or he is a physician assistant and must inform
206 the patient that the patient has the right to see the physician
207 before a prescription is prescribed or dispensed by the
208 physician assistant.

209 2. The supervising physician must notify the department of
210 her or his intent to delegate, on a department-approved form,
211 before delegating such authority and of any change in
212 prescriptive privileges of the physician assistant. Authority to
213 dispense may be delegated only by a supervising physician who is
214 registered as a dispensing practitioner in compliance with s.
215 465.0276.

216 3. The physician assistant must complete a minimum of 10
217 continuing medical education hours in the specialty practice in
218 which the physician assistant has prescriptive privileges with
219 each licensure renewal.

220 4. The department may issue a prescriber number to the
221 physician assistant granting authority for the prescribing of
222 medicinal drugs authorized within this paragraph upon completion
223 of the requirements of this paragraph. The physician assistant
224 is not required to independently register pursuant to s.
225 465.0276.

226 5. The prescription ~~may be in paper or electronic form but~~
227 must comply with ss. 456.0392(1) and 456.42 ~~ss. 456.0392(1) and~~
228 ~~456.42(1)~~ and chapter 499 and must contain, in addition to the
229 supervising physician's name, address, and telephone number, the
230 physician assistant's prescriber number. Unless it is a drug or
231 drug sample dispensed by the physician assistant, the
232 prescription must be filled in a pharmacy permitted under
233 chapter 465, and must be dispensed in that pharmacy by a
234 pharmacist licensed under chapter 465. The inclusion of the
235 prescriber number creates a presumption that the physician
236 assistant is authorized to prescribe the medicinal drug and the
237 prescription is valid.

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

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