

By Senator Baxley

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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
7 provisions relating to written prescriptions to
8 conform to changes made by the act; prohibiting
9 electronic prescribing from interfering with a
10 patient's freedom to choose a pharmacy; conforming
11 provisions to changes made by the act; prohibiting the
12 use of certain advertisements or functions in
13 electronic prescribing software which may influence
14 the prescribing decision of a prescribing practitioner
15 or his or her agent at the point of care for a
16 patient; defining the terms "point of care" and
17 "prescribing decision"; authorizing electronic
18 prescribing software to display information regarding
19 a payor's formulary under certain circumstances;
20 repealing s. 456.43, F.S., relating to electronic
21 prescribing for medicinal drugs; amending ss. 458.347
22 and 459.022, F.S.; conforming provisions to changes
23 made by the act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 456.42, Florida Statutes, is amended to
28 read:

29 456.42 ~~Written~~ Prescriptions for medicinal drugs.—

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

47 (2) A prescriber may issue a written prescription only when
48 electronic prescribing is not available due to a temporary
49 technological or electrical failure that is not reasonably
50 within the control of the prescribing practitioner, and such
51 failure is documented in the patient record. A written
52 prescription for a controlled substance listed in chapter 893
53 must have the quantity of the drug prescribed in both textual
54 and numerical formats, must be dated in numerical,
55 month/day/year format, or with the abbreviated month written
56 out, or the month written out in whole, and must be ~~either~~
57 written on a standardized counterfeit-proof prescription pad
58 produced by a vendor approved by the department ~~or~~

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59 ~~electronically prescribed as that term is used in s. 408.0611.~~
60 As a condition of being an approved vendor, a prescription pad
61 vendor must submit a monthly report to the department that, at a
62 minimum, documents the number of prescription pads sold and
63 identifies the purchasers. The department may, by rule, require
64 the reporting of additional information.

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

78 ~~(a) The practitioner and the dispenser are the same entity;~~
79 ~~(b) The prescription cannot be transmitted electronically~~
80 ~~under the most recently implemented version of the National~~
81 ~~Council for Prescription Drug Programs SCRIPT Standard;~~

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

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

93 ~~(e) The practitioner is prescribing a drug under a research~~
94 ~~protocol;~~

95 ~~(f) The prescription is for a drug for which the federal~~
96 ~~Food and Drug Administration requires the prescription to~~
97 ~~contain elements that may not be included in electronic~~
98 ~~prescribing;~~

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

101 ~~(h) The practitioner determines that it is in the best~~
102 ~~interest of the patient, or the patient determines that it is in~~
103 ~~his or her own best interest, to compare prescription drug~~
104 ~~prices among area pharmacies. The practitioner must document~~
105 ~~such determination in the patient's medical record.~~

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

116 (a) "Point of care" means the time at which a prescribing

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117 practitioner or his or her agent prescribes any medicinal drug.

118 (b) "Prescribing decision" means a prescribing
119 practitioner's or his or her agent's decision to prescribe any
120 medicinal drug.

121 (5) Electronic prescribing software may display information
122 regarding a payor's formulary if doing so does not preclude or
123 make more difficult the selection of any particular pharmacy by
124 a patient or the selection of any certain medicinal drug by a
125 prescribing practitioner or his or her agent.

126
127 The department, in consultation with the Board of Medicine, the
128 Board of Osteopathic Medicine, the Board of Podiatric Medicine,
129 the Board of Dentistry, the Board of Nursing, and the Board of
130 Optometry, may adopt rules to implement this subsection.

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

132 Section 3. Paragraph (e) of subsection (4) of section
133 458.347, Florida Statutes, is amended to read:

134 458.347 Physician assistants.—

135 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

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

143 1. A physician assistant must clearly identify to the
144 patient that he or she is a physician assistant and inform the
145 patient that the patient has the right to see the physician

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146 before a prescription is prescribed or dispensed by the
147 physician assistant.

148 2. The supervising physician must notify the department of
149 his or her intent to delegate, on a department-approved form,
150 before delegating such authority and of any change in
151 prescriptive privileges of the physician assistant. Authority to
152 dispense may be delegated only by a supervising physician who is
153 registered as a dispensing practitioner in compliance with s.
154 465.0276.

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

166 4. The department may issue a prescriber number to the
167 physician assistant granting authority for the prescribing of
168 medicinal drugs authorized within this paragraph upon completion
169 of the requirements of this paragraph. The physician assistant
170 is not required to independently register pursuant to s.
171 465.0276.

172 5. The prescription ~~may be in paper or electronic form but~~
173 must comply with ss. 456.0392(1) and 456.42 ~~ss. 456.0392(1) and~~
174 ~~456.42(1)~~ and chapter 499 and must contain, in addition to the

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175 supervising physician's name, address, and telephone number, the
176 physician assistant's prescriber number. Unless it is a drug or
177 drug sample dispensed by the physician assistant, the
178 prescription must be filled in a pharmacy permitted under
179 chapter 465 and must be dispensed in that pharmacy by a
180 pharmacist licensed under chapter 465. The inclusion of the
181 prescriber number creates a presumption that the physician
182 assistant is authorized to prescribe the medicinal drug and the
183 prescription is valid.

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

186 Section 4. Paragraph (e) of subsection (4) of section
187 459.022, Florida Statutes, is amended to read:

188 459.022 Physician assistants.—

189 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

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

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

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

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204 before delegating such authority and of any change in
205 prescriptive privileges of the physician assistant. Authority to
206 dispense may be delegated only by a supervising physician who is
207 registered as a dispensing practitioner in compliance with s.
208 465.0276.

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

213 4. The department may issue a prescriber number to the
214 physician assistant granting authority for the prescribing of
215 medicinal drugs authorized within this paragraph upon completion
216 of the requirements of this paragraph. The physician assistant
217 is not required to independently register pursuant to s.
218 465.0276.

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

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

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Section 5. This act shall take effect July 1, 2020.