

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: CS/SB 454

INTRODUCER: Health Policy Committee and Senator Avila

SUBJECT: Physician Assistant Licensure

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Fav/CS
2.	_____	_____	HE	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 454 revises the eligibility requirements for physician assistants (PAs) seeking licensure. The bill changes the requirement for graduation from an approved program to a requirement to have “completed” or “matriculated,” as applicable. The bill authorizes the Board of Medicine (BOM) and the Board of Osteopathic Medicine (BOOM) to grant a license to a PA applicant who does not meet the educational requirements for licensure but has passed the Physician Assistant National Certifying Examination (PANCE). These changes reinstate the licensure eligibility for PAs who graduated from accredited PA programs with a bachelor’s degree who were negatively impacted by the Legislature’s 2021 revisions to the PA licensure statutes.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Physician Assistants (PAs)

History of the Physician Assistant Profession

In 1965, physicians and educators recognized there was a shortage of primary care physicians, so Duke University Medical Center put together the first class of PAs. Duke selected four Navy

Vietnam-era hospital corpsmen who had received considerable medical training during their military service. The first PA class graduated from the Duke program in 1967.¹

In Florida, physicians were first authorized to use PAs in their practice in 1979. The legislative intent for recognizing the PA profession was to allow physicians to delegate the performance of “medical services” to qualified PAs when such delegation was consistent with the patient’s health and welfare, thereby freeing physicians to more effectively utilize their medical education, training, and experience. Physicians were required to apply to their board² to utilize and supervise a PA in their practice. PAs were required to be graduates of board-approved programs, or the equivalent, and to be approved by the Department of Health (DOH) to perform “medical services” under the supervision of a physician, who was certified by the board to supervise the PA. PAs were not required to be licensed by the DOH. Physicians utilizing PAs were liable for any act or omissions of the PAs while under the physician’s supervision.³

Physician Assistant Education

Physician assistant programs must be recommended by the Council on Physician Assistants (Council) and approved by the BOM and the BOOM (collectively referenced in this analysis as the boards). The Council may only recommend PA programs that hold full accreditation or provisional accreditation from the Commission on Accreditation of Allied Health Programs or its successor organization. The boards are required to adopt program standards to ensure the health and welfare of patients that receive PA services, and review curricula, faculties, and facilities of PA programs to ensure they meet standards set forth by the boards.⁴

Currently there are 17 universities in Florida offering PA programs accredited by the Accreditation Review Commission on Education (ARC-PA).⁵ Physician assistant programs are on average 24 to 27 months, or six or seven semesters, requiring 96 to 111 clinical and classroom credit hours to graduate. The programs are designed to prepare students to practice as part of a physician-PA team. Upon completion, graduates receive a Master of Science in PA Practice degree or a Master of PA Studies, or similar degree.

Following graduation, a PA candidate must take and pass the PANCE given by the National Commission on Certification of PAs (NCCPA) to become certified. It is a five-hour exam with 300 multiple-choice questions, with no didactic components.⁶

¹ American Association of Physician Assistants, About, History, *History of the PA Profession*, available at: <https://www.aapa.org/about/history/> (last visited Mar. 23, 2023).

² Section 456.001(1), F.S., defines “board” as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the Department of Health or, in some cases, within the department’s Division of Medical Quality Assurance.

³ Chapter 79-230, s. 1., and ch. 79-320, s. 1., Laws of Fla. (Creating ss. 459.018 and 458.017, F.S., effective Jul. 1, 1979).

⁴ Section 458.347(6) and 459.022(6), F.S.

⁵ Florida Academy of PAs, *For Students - PA Programs in Florida*, available at: <https://www.fapaonline.org/page/studentprograms> (last visited Mar. 22, 2023).

⁶ The National Commission on Certification of PA (NCCPA), *2021 Statistical Profile of Recently Certified PAs*. p. 5. (Nov. 15, 2022) available at: <https://www.nccpa.net/wp-content/uploads/2022/12/2021-Statistical-Profile-of-Recently-Certified-PAs-11.15.22.pdf> (last visited Mar. 22, 2023). The NCCPA is the only certifying organization for PAs in the United States. As of Nov. 15, 2021, there were more than 158,000 certified PAs in the United States.

Physician Assistant Scope of Practice

PAs may only practice under the direct or indirect supervision of a physician with whom they have a working relationship.⁷ PA are licensed to perform only those medical services delegated to them by a supervising allopathic or osteopathic physician.⁸

A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice. A supervising physician decides whether to permit a PA to perform a task or procedure under direct or indirect supervision based on his or her reasonable medical judgment regarding the probability of morbidity and mortality to the patient, and the physician must be certain the PA has the knowledge and skills to perform the task or procedure assigned.⁹

Current law defines physician "supervision"¹⁰ to mean responsible supervision and control. The boards have established by rule that "responsible supervision" of a PA means the ability of the supervising physician to exercise control and provide direction over the services or tasks performed by the PA. Whether the supervision of a PA is adequate is dependent upon the:

- Complexity of the task;
- Risk to the patient;
- Background, training, and skill of the PA;
- Adequacy of the direction in terms of its form;
- Setting in which the tasks are performed;
- Availability of the supervising physician;
- Necessity for immediate attention; and
- Number of other persons that the supervising physician must supervise.¹¹

Responsible supervision and control also require the supervising physician to periodically review the PA's performance¹² and to determine the level of supervision the PA requires for every task or procedure delegated to the PA as to whether it will be under:¹³

- Direct supervision: Requires the physical presence of the supervising physician on the premises so that the physician is immediately available to the PA when needed; or
- Indirect supervision: Requires the supervising physician to be within reasonable physical proximity, and easily availability, to the PA for communication with the PA, including via telecommunication.

A supervising physician may also delegate to a PA his or her authority to:¹⁴

- Prescribe or dispense any medicinal drug used in the supervising physician's practice unless such medication is listed in the negative formulary established by the Council, but only under the following circumstances:

⁷ Sections 458.347(2)(f) and 459.022(2)(f), F.S.

⁸ Sections 458.347(4) and 459.022(4), F.S.

⁹ Fla. Admin. Code R. 64B8-30.012(3) and 64B15-6.010(3), (2022).

¹⁰ Sections 458.247(2)(g) and 459.022(2)(g), F.S.

¹¹ Fla. Admin. Code R. 64B8-30.001 and 64B15-6.001, (2022).

¹² Fla. Admin. Code R. 64B8-30.001(3) and 64B15-6.001(3), (2022).

¹³ Fla. Admin. Code R. 64B8-30.001(4) and (5) and 64B15-6.001(4) and (5), (2022).

¹⁴ Sections 458.347(4) and 459.022(4), F.S.

- The PA identifies himself or herself as a PA and advises the patient of his or her right to see a physician before the prescription is written or dispensed;
- The supervising physician must be registered as a dispensing practitioner and have notified the DOH on an approved form of his or her intent to delegate prescriptive authority or to change prescriptive authority; and
- The PA must have completed 10 hours of continuing medical education in the specialty practice in which the PA has prescriptive authority with each licensure renewal, and three of the 10 hours must be on the safe and effective prescribing of controlled substances.
- Order any medication for administration to the supervising physician's patient in a hospital or other facility licensed under ch. 395, F.S., or a nursing home licensed under Part II, ch. 400, F.S.; and
- Perform any other service that is not expressly prohibited in the PA practice acts, or the rules adopted thereunder.

Licensed PAs may prescribe and dispense any medicinal drug not listed in the negative formulary developed by the Council in consultation with a pharmacist licensed under ch. 465, F.S., but not licensed under chs. 458 or 459, F.S., including general anesthetics, radiographic contrast materials, and up to a 14-day supply of psychiatric mental health controlled substances to children under 18 years of age provided the PA is under the supervision of a pediatrician, a family practice physician, an internal medicine physician, or a psychiatrist; and the PA's prescribing authority of schedule II controlled substances is limited to a seven day supply.¹⁵

The supervising physician must notify the DOH of his or her intent to delegate prescriptive authority, on a DOH-approved form, before delegating the authority and must notify the DOH of any change in the PA's prescriptive privileges. Authority to dispense may be delegated only by a supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276, F.S.¹⁶

A primary supervising physician is responsible and legal liability for the services rendered by the a PA at all times the PA is not under the supervision and control of an alternate supervising physician¹⁷ and may not supervise more than ten PAs at any time.¹⁸

Except for the physician certification required for the use of medical marijuana,¹⁹ a PA may authenticate any document with his or her signature, certification, stamp, verification, affidavit, or endorsement if the document may be authenticated by a physician. Such documents include, but are not limited to, the following:²⁰

- Initiation of an involuntary examination under the Baker Act;²¹
- Do-not-resuscitate orders or orders for the administration of life-sustaining treatment;
- Death certificates;
- School physical examinations;

¹⁵ Sections 458.347(4)(i), and 459.022(4)(h), F.S.

¹⁶ *Id.*

¹⁷ Fla. Admin. Code R. 64B8-30.001(1) and 64B15-6.001(1), (2022).

¹⁸ Sections 458.347(3) and 459.022(3), F.S.

¹⁹ *See* s. 381.986, F.S.

²⁰ Sections 458.347(4)(i), and 459.022(4)(i), F.S.

²¹ *See* s. 394.463, F.S.

- Medical examinations for workers' compensation claims, except examinations required for the evaluation and assignment of the claimant's date of maximum medical improvement and impairment ratings;²²; and
- Orders for physical therapy, occupational therapy, speech-language therapy, home health services, or durable medical equipment.

A physician assistant may supervise medical assistants.^{23,24}

Third-party payers are also authorized to reimburse employers of PAs for covered services rendered by licensed PAs. Payment for services within the physician assistant's scope of practice must be made when ordered or performed by a PA if the same service would have been covered if ordered or performed by a physician. PAs are authorized to bill for and receive direct payment for the services they deliver.²⁵

Physician Assistant Licensure

Any person desiring to be licensed as a PA must apply to the DOH. The DOH must issue a license to any person certified by the Council as having met all of the following requirements:

- Is at least 18 years of age;
- Has completed an application and remitted an application fee. The application must include:
 - A diploma from an approved program;
 - An acknowledgment of any prior felony convictions; and
 - An acknowledgment of any previous revocations or denials of licensure or certification in any state.
- Has graduated from an approved program;
 - For an applicant who graduated after December 31, 2020, has received a master's degree in accordance with the Accreditation Review Commission on Education for the Physician Assistant (ARCEPA) or, before 2001, its equivalent or predecessor organization; or
 - For an applicant who graduated on or before December 31, 2020, has received a bachelor's or master's degree from an approved program; or
 - For an applicant who graduated before July 1, 1994, has graduated from an approved program of instruction in primary health care or surgery; or
 - For an applicant who graduated before July 1, 1983, has received a certification as a PA from the boards; or
 - The board may also grant a license to an applicant who does not meet the specified educational requirement but has passed the PANCE administered by the National Commission on Certification of Physician Assistants (NCCPA) before 1986.
- Has obtained a passing score on the PANCE established by the NCCPA and has been nationally certified. If an applicant does not hold a current NCCPA certification and has not actively practiced as a PA within the preceding four years, the applicant must retake and successfully complete the entry-level examination of the NCCPA or its equivalent or successor, to be eligible for licensure.

²²Section 440.02, F.S., defines the date of maximum medical improvement and s 440.15, F.S., defines impairment rating for the purposes of awarding permanent partial or total workers' compensation disability benefits.

²³ Sections 458.347(4)(j), and 459.022(4)(i), F.S.

²⁴ See s. 458.3485, F.S.

²⁵ Sections 458.347(4)(k), and 459.022(4)(j), F.S.

Physician assistants must renew their licenses biennially. During each biennial renewal cycle, a PA must complete 100 hours of continuing medical education or must demonstrate a current NCCPA certification.²⁶ To maintain certification, a PA must earn at least 100 hours of continuing medical education biennially, and must take and pass a re-certification examination every 10 years.²⁷

The 2021 changes to the educational requirements for licensure as a PA created a situation where otherwise eligible PAs were rendered ineligible. Specifically, there are individuals who began their PA bachelor's degree program prior to the change in law who would have been eligible for licensure upon graduation, but because they graduated after December 31, 2020, they were rendered ineligible for licensure.

III. Effect of Proposed Changes:

CS/SB 454 amends ss. 458.347(6) and 459.022(6), F.S., for allopathic and osteopathic PAs licensure in an identical manner, so the effect of the changes are the same for both statute sections.

CS/SB 454 requires the DOH to issue a license to any person the PA council certifies has, among other things:

- “Completed,” rather than “graduate from,” an approved program; and
- Matriculated or graduated, as required:
 - After December 31, 2020, and received a master's degree;
 - On or before December 31, 2020, and received a bachelor's or master's degree;
 - Before July 1, 1994, from an approved program of instruction in primary health care or surgery; or
 - Before July 1, 1983, and received a certification as a PA from the boards.

CS/SB 454 eliminates the educational requirement that a PA's master's degree earned after December 31, 2020, be received in accordance with the Accreditation Review Commission on Education for the Physician Assistant or, before 2001, its equivalent or predecessor organization.

The bill expands the boards' authority to grant PA licenses on a case-by-case basis to any PA who did not meet the statutory educational requirements for licensure, but who has passed the PANCE, regardless of when, to not just those PAs who did not meet the licensure education requirements but passed the PANCE before 1986.

The bill provides an effective date of July 1, 2023.

²⁶ Sections 458.347(7)(c) and 459.022(7)(c), F.S.

²⁷ National Commission on Certification of Physician Assistants, *Maintain Certification*, available at: <https://www.nccpa.net/maintain-certification/> (last visited Mar. 23, 2023).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill could allow certain PAs to obtain licensure if they have passed the PANCE but not met the statutory education requirements.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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 Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 27, 2023:

The CS:

- Requires a PA licensure applicant to “complete” an approved program, rather than “graduate from” an approved program;
- Returns to ss. 458.347 and 459.022, F.S., the following educational licensure requirement options for PAs that are in current law:
 - Receiving a bachelor’s or master’s degree from an approved program before December 31, 2020;
 - Graduating from an approved program of instruction in primary health care or surgery before July 1, 1984; and
 - Graduating from an approved program and receiving a certification as a PA from the boards.
- Expands the boards’ authority to grant PAs licenses on a case-by-case basis to any PA who does not meet the statutory educational requirements for licensure, but who has passed the PANCE, regardless of when.

- B. **Amendments:**

None.