HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1275 Physician Assistants
SPONSOR(S): Select Committee on Health Care Workforce Innovation; Ahern and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Care Workforce Innovation	16 Y, 0 N, As CS	Dunn	Calamas
2) Health & Human Services Committee		Dunn	Calamas

SUMMARY ANALYSIS

A physician assistant (PA) is a person licensed to perform health care services, in the specialty areas in which he or she has been trained, delegated by a supervising physician. PAs are governed by the respective physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs), because PAs may only practice under the supervision of a MD or DO.

A PA practices under the delegated authority of a supervising physician, who may supervise up to four PAs. A physician supervising a PA must be qualified in the medical area(s) in which the PA is to perform health care tasks, and is responsible and liable for the performance and acts and omissions of the PA.

A supervising physician may delegate to a PA the authority to prescribe or dispense any medicinal drug used in the supervisory physician's practice. To delegate prescribing authority, the supervising physician must notify the Department of Health of intent to delegate prescribing authority to a PA, and the PA must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice area each renewal period.

This bill amends chapters 458 and 459, F.S., to streamline administrative procedures for PAs seeking prescribing authority and for PA applicants seeking licensure. Instead of requiring PAs to submit a signed affidavit to attest to the completion of required continuing education in order to obtain prescribing privileges, the bill requires PAs to certify to the completion of the continuing education. The requirement for PA applicants to give a sworn statement of prior felony convictions or previous license denials or revocations when applying for licensure is changed to require a statement of such actions. The bill removes the requirement that PA applicants submit two letters of recommendation to be eligible for licensure.

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

The bill has an insignificant negative fiscal impact on the DOH. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Physician Assistants

A physician assistant (PA) is a person licensed to perform health care services, in the specialty areas in which he or she has been trained, delegated by a supervising physician.[1] Currently, there are 5,874 in-state, and 713 out-of-state, active licensed PAs in Florida.[2]

Prior to becoming a licensed PA in Florida, an applicant must pass the Physician Assistant National Certifying Exam.[3] Eligibility to take the exam requires graduation from an accredited PA program.[4] Earning a degree from an accredited PA program usually takes at least two years of full-time postgraduate study.[5] Most applicants to physician assistant education programs already have a bachelor's degree and some healthcare-related work experience.[6]

PAs are governed by the respective physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs), because PAs may only practice under the supervision of a MD or DO.[7] Specifically, sections 458.347(7) and 459.022(7), F.S., govern the licensure of PAs. PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S.

An applicant for a PA license must apply to the Department of Health (department). The department must issue a license to a person certified by the Council as having met all of the following requirements:[8]

- Is at least 18 years of age;
- Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants;[9]
- Has completed an application form and remitted an application fee not to exceed $300 as set by the boards;
- Holds a certificate of completion of a PA training program, including certain course descriptions relating to pharmacotherapy if the PA applicant seeks prescribing authority;
- Pass a criminal background screening;[10]
- Provides a sworn statement of any prior felony convictions;

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[1] Section 458.347(1), F.S.
[2] E-mail from Florida Department of Health to the Health and Human Services Committee (Nov. 7, 2013) (on file with committee staff).
[3] National Commission on Certification of Physician Assistants, *PANCE*, *available at* https://www.nccpa.net/pance (last visited Mar. 31, 2014).
[4] Programs are accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA). *Id.*
[5] Bureau of Labor Statistics, *Physician Assistants*, *available at* http://www.bls.gov/ooh/healthcare/physician-assistants.htm (last visited Mar. 31, 2014).
[6] *Id.*
[7] Chapters 458 and 459, F.S.
[8] Section 458.347(7), F.S.; section 459.022(7), F.S.
[9] The proficiency measure for the exam is a scaled score; therefore, what is considered a passing score fluctuates with each administration. National Commission on Certification of Physician Assistants, *Exam Development and Scoring*, *available at* http://www.nccpa.net/Scoring (last visited Mar. 31, 2014)
[10] Background screening is conducted by fingerprint by the Department of Law Enforcement and the Federal Bureau of Investigation. Section 456.0135, F.S.

- Provides a sworn statement of any previous revocation or denial of licensure or certification in any state; and
- Provides two letters of recommendation.

A PA's license must be renewed biennially. Each renewal must include:

- A renewal fee not to exceed $500 as set by the boards;[11]
- A sworn statement of no felony convictions in the previous 2 years; and
- Proof of completion of 100 hours of continuing medical education within the biennial period or a current certificate issued by the National Commission on Certification of Physician Assistants.

Council on Physician Assistants

The Council was created in 1995 to recommend the licensure requirements (including educational and training requirements) for PAs, establish a formulary of drugs that PAs are prohibited to prescribe, and develop rules to ensure that the continuity of a physician's supervision over a PA is maintained in each practice setting throughout the state.[12] The Council does not discipline PAs. Disciplinary action is the responsibility of either the Board of Medicine or the Board of Osteopathic Medicine (boards).

Supervising Physician

A PA practices under the delegated authority of a supervising physician. A physician supervising a PA must be qualified in the medical area(s) in which the PA is to perform health care tasks and is responsible and liable for the performance and acts and omissions of the PA.[13] A physician is not allowed to supervise more than four PAs at any one time.[14]

Supervision is defined as responsible supervision and control that requires the easy availability or physical presence of the physician for consultation and direction of actions performed by a PA.[15] Easy availability includes the ability to use telecommunication.

The respective board is delegated the authority to establish by rule what constitutes responsible supervision. Responsible supervision, defined by rule, is the ability of the supervising physician to responsibly exercise control and provide direction over the services or tasks performed by the PA.[16] In providing supervision, the supervising physician is required to periodically review the PA's performance. In determining whether supervision is adequate, the following factors must be considered:[17]

- The complexity of the task;
- The risk to the patient;
- The background, training and skill of the PA;
- 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 persons that the supervising physician must supervise.

The boards are authorized to adopt by rule the general principles that supervising physicians must use in developing the scope of practice of a PA under direct and indirect supervision.[18] Direct supervision

[11] The fee is currently set at $275. Fla. Admin. Code Ann. r. 64B8-30.019.
[12] Section 458.347(9); section 459.022(9), F.S.
[13] Section 458.347(3), F.S.; Fla. Admin. Code Ann. r. 64B8-30.012.
[14] *Id.*
[15] Section 458.347(1)(f), F.S.
[16] Fla. Admin. Code Ann. r. 64B8-30.001.
[17] *Id.*
[18] Section 458.347(4)(a); section 459.022(4)(a), F.S.

refers to the physical presence of the supervising physician on the premises so that the supervising physician is immediately available to the PA when needed; whereas, indirect supervision refers to the easy availability of the supervising physician, such that the supervising physician must be within reasonable physical proximity.[19]

Under current regulations, the decision to allow the PA to perform a task or procedure under direct or indirect supervision is made by the supervising physician based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.[20] An example of unreasonable medical judgment is a PA providing emergency room medical services to patients when the supervising physician is located 500 miles away.[21] Additionally, it is the responsibility of the supervising physician to be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned. Physicians supervising dermatologist physician assistants are required by statute to have a primary place of practice within 75 miles.[22]

The number of PAs a supervising physician may supervise varies by state.[23] According to the American Academy of Physician Assistants, eleven states place no restriction on the number of PAs that may be supervised.[24] Sixteen states, including Florida, and the District of Columbia limit the amount to four.[25] Sixteen states have a limit of two or three,[26] and seven states have a limit of five or six.[27]

Delegable Tasks

A supervisory physician may delegate to a PA the authority to:

- Prescribe or dispense any medicinal drug used in the supervisory physician's practice.[28]
- Order medicinal drugs for a hospitalized patient of the supervising physician.[29]
- Administer a medicinal drug under the direction and supervision of the physician.[30]

Currently, PAs are prohibited from prescribing controlled substances (Schedules I-V under s. 893.03, F.S.); general, spinal, or epidural anesthetics; and radiographic contrast materials.[31] However, physicians may delegate to PAs the authority to order controlled substances in facilities licensed under ch. 395, F.S. (hospitals, ambulatory surgical centers, or mobile surgical facilities).

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[19] Fla. Admin. Code Ann. r. 64B8-30.012; Fla. Admin. Code Ann. r. 64B15-6.010.
[20] *Id.*
[21] *See Department of Health, Board of Medicine v. Arnaldo Carmouze, P.A.*, Case No. 98-4993 (DOAH September 24, 1999).
[22] Section 458.348, F.S.
[23] The authority of Boards charged with regulating PAs also varies by state. In some states with a defined limit on PA supervision, the regulatory Board may be given rulemaking authority to increase or decrease the limit. *See* DEL. CODE ANN. tit. 24, § 1771(f). In other states, the Board may be granted discretionary authority to pierce the limit on a case by case basis. *See* Or. Rev. Stat. § 677.510. Some statutes also contain exceptions to PA supervision limits based on the type of health care facility in which the supervision occurs. *See* KAN. STAT. ANN. § 65-28a10.
[24] Alaska, Arkansas, Maine, Massachusetts, Montana, New Mexico (ODs may only supervise two PAs), North Carolina, North Dakota, Rhode Island, Tennessee, and Vermont. American Academy of Physician Assistants, *State Laws and Regulations Governing the Number of Physician Assistants that One Physician may Supervise*, materials on file with committee staff.
[25] Arizona, California, Colorado, Delaware, D.C., Florida, Georgia, Maryland, Michigan, Nebraska, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, South Dakota, and Utah. *Id.*
[26] Alabama (full time equivalent PAs), Hawaii, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nevada, Ohio, Oklahoma, South Carolina, West Virginia, Wisconsin, and Wyoming. *Id.*
[27] Connecticut, Illinois, Iowa, Minnesota, Texas, Virginia, and Washington. *Id.*
[28] Section 458.347(4)(e), F.S.; section 459.022(4)(e), F.S. The supervising physician must notify the department of intent to delegate prescribing authority, and the PA must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice area each renewal period. *Id.* The PA must identify to the patient as a PA and inform the patient of the right to see the physician. *Id.* The PA must note the prescription or dispensing of medication in the appropriate medical record. *Id.*
[29] Section 458.347(4)(f); section 459.022(4)(f), F.S.
[30] Fla. Admin. Code Ann. r. 64B8-30.008; Fla. Admin. Code Ann. r. 64B15-6.0038.
[31] *Id.*

Determination of the final diagnosis must be performed by the supervising physician, and may not be delegated to a PA.[32] Per rule, the following tasks are not permitted to be performed under indirect supervision:[33]

- Routine insertion of chest tubes and removal of pacer wires or left atrial monitoring lines;
- Performance of cardiac stress testing;
- Routine insertion of central venous catheters;
- Injection of intrathecal medication without prior approval of the supervising physician;
- Interpretation of laboratory tests, X-ray studies and EKG's without the supervising physician interpretation and final review; and
- Administration of general, spinal, and epidural anesthetics; this may be performed under direct supervision only by PA who graduated from a board-approved anesthesiology assistants program.

Effect of Proposed Changes

This bill amends chapters 458 and 459, F.S., to streamline administrative procedures for PAs seeking prescribing authority and for PA applicants seeking licensure. Instead of requiring PAs to submit a signed affidavit to attest to the completion of required continuing education in order to obtain prescribing privileges, the bill requires PAs to certify to the completion of the continuing education. The requirement for PA applicants to give a sworn statement of prior felony convictions or previous license denials or revocations when applying for licensure is changed to require a statement of such actions. The bill removes the requirement that PA applicants submit two letters of recommendation to be eligible for licensure.

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The bill provides an effective date of July 1, 2014.

B. SECTION DIRECTORY:

Section 1. Amends s. 458.347, F.S., relating to physician assistants.
Section 2. Amends s. 459.022, F.S., relating to physician assistants.
Section 3. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill has an insignificant negative fiscal impact on the DOH associated with non-recurring costs for rulemaking, which current budget authority is adequate to absorb.[34]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

[32] *Id.*
[33] *Id.*
[34] Department of Health Bill Analysis of HB 1275, March 28, 2014, on file with committee staff.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2014, the Select Committee on Health Care Workforce Innovation adopted an amendment to HB 1275 and reported the bill favorably as a committee substitute. The amendment increases the number of physician assistants a physician may supervise from four to eight. This analysis is drafted to the Committee Substitute.