



Health Care Appropriations Subcommittee

**Tuesday, January 21, 2020
12:30 pm – 2:30 pm
Sumner Hall (404 HOB)**

MEETING PACKET

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health Care Appropriations Subcommittee

Start Date and Time: Tuesday, January 21, 2020 12:30 pm
End Date and Time: Tuesday, January 21, 2020 02:30 pm
Location: Sumner Hall (404 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 309 Prohibited Acts by Health Care Practitioners by Massullo
HB 471 Council on Physician Assistants by Plasencia
HB 485 Athletic Trainers by Antone

NOTICE FINALIZED on 01/16/2020 3:30PM by SPB



The Florida House of Representatives
Appropriations Committee
Health Care Appropriations Subcommittee

Jose Oliva
Speaker

MaryLynn Magar
Chair

AGENDA

Tuesday, January 21, 2020
12:30 PM – 2:30 PM
Sumner Hall (404 HOB)

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair Magar
- III. Consideration of the following bill(s):

HB 309 Prohibited Acts by Health Care Practitioners by Massullo
HB 471 Council on Physician Assistants by Plasencia
HB 485 Athletic Trainers by Antone
- IV. Closing Remarks/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 309 Prohibited Acts by Health Care Practitioners

SPONSOR(S): Massullo

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 2 N	Siples	McElroy
2) Health Care Appropriations Subcommittee		Mielke <i>FM</i>	Clark <i>Jrc</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners. The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions, including allopathic physicians, osteopathic physicians, and podiatric physicians.

DOH does not license a physician's specialty or sub-specialty based upon board certification, but does limit who can hold themselves out as board-certified specialists. An unlicensed individual may be subject to administrative action or criminal penalties if the individual states or otherwise implies that he or she is a licensed medical professional. This may include the use of certain terms or titles that the public generally associates with a specific medical profession.

HB 309 prohibits a health care practitioner from knowingly using certain names or titles if the health care practitioner is not authorized under the law as an allopathic physician, osteopathic physician, or podiatric physician. The bill authorizes DOH to impose administrative penalties on a health care practitioner who violates this provision.

The bill has an indeterminate, but likely insignificant, negative fiscal impact on DOH, which current resources are adequate to absorb. The bill has no fiscal impact on local governments.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Licensure and Regulation of Physicians

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.¹ The MQA works in conjunction with 22 boards and four councils to license and regulate seven types of health care facilities and more than 40 health care professions, including Medical Doctors (allopathic physicians), Doctors of Osteopathic Medicine (osteopathic physicians), and Doctors of Podiatric Medicine (podiatric physicians).² Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA.

Allopathic Physician Licensure

Chapter 458, F.S., governs licensure and regulation of the practice of medicine by the Florida Board of Medicine (allopathic board) in conjunction with DOH. The chapter imposes requirements for licensure examination and licensure by endorsement.

Allopathic Education and Training Requirements

An individual seeking to be licensed by examination as an allopathic physician must, among other things:

- Complete 2 years of post-secondary education which includes, at a minimum, courses in fields such as anatomy, biology, and chemistry prior to entering medical school;
- Meet one of the following medical education and postgraduate training requirements:
 - Graduate from an allopathic medical school recognized and approved by an accrediting agency recognized by the U.S. Office of Education or recognized by an appropriate governmental body of a U.S. territorial jurisdiction, and have completed at least one year of approved residency training;
 - Graduate from an allopathic foreign medical school registered with the World Health Organization and certified pursuant to statute as meeting the standards required to accredit U.S. medical schools, and have completed at least one year of approved residency training; or
 - Graduate from an allopathic foreign medical school that has not been certified pursuant to statute; have an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG),³ have passed that commission's examination; and have completed an approved residency or fellowship of at least 2 years in one specialty area; and

¹ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

² Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2018-2019*, 6, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1819.pdf> (last visited October 29, 2019).

³ A graduate of a foreign medical school does not need to present an ECFMG certification or pass its exam if the graduate received his or bachelor's degree from an accredited U.S. college or university, studied at a medical school recognized by the World Health Organization, and has completed all but the internship or social service requirements, has passed parts I and II of the National Board Medical Examiners licensing examination or the ECFMG equivalent examination. Section 458.311, F.S.

- Obtain a passing score on:
 - The United States Medical Licensing Examination (USMLE);
 - A combination of the USMLE, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or
 - The Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX), if the applicant was licensed on the basis of a state board examination, is currently licensed in at least one other jurisdiction of the United States or Canada, and has practiced for a period of at least 10 years.⁴

An individual who holds an active license to practice medicine in another jurisdiction may seek licensure by endorsement to practice medicine in Florida.⁵ The applicant must meet the same requirements for licensure by examination. To qualify for licensure by endorsement, the applicant must also submit evidence of the licensed active practice of medicine in another jurisdiction for at least 2 of the preceding 4 years, or evidence of successful completion of either a board-approved postgraduate training program within 2 years preceding filing of an application or a board-approved clinical competency examination within the year preceding the filing of an application for licensure.

Osteopathic Physician Licensure

Chapter 459, F.S., provides for the licensure and regulation of the practice of medicine by the Florida Board of Osteopathic Medicine (osteopathic board) in conjunction with DOH. The chapter imposes requirements for licensure by examination and licensure by endorsement.

Osteopathic Education and Training Requirements

An individual seeking to be licensed as an osteopathic physician must, among other things:⁶

- Graduate from a medical college recognized and approved by the American Osteopathic Association;
- Successfully complete a resident internship of at least 12 months in a hospital approved by the Board of Trustees of the American Osteopathic Association or any other internship approved by the osteopathic board; and
- Obtain a passing score, as established by rule of the osteopathic board, on the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the osteopathic board, no more than five years prior to applying for licensure.⁷

If an applicant for a license to practice osteopathic medicine is licensed in another state, the applicant must have actively practiced osteopathic medicine within the two years prior to applying for licensure in this state.

Podiatric Physicians

Chapter 460, F.S., provides for the licensure and regulation of the practice of podiatric medicine by the Florida Board of Podiatric Medicine (podiatric board) in conjunction with DOH. The chapter imposes requirements for licensure by examination and licensure by endorsement.

Podiatric Education and Training Requirements

An individual seeking to be licensed as a podiatric physician must, among other things:

⁴ Section 458.311(1), F.S.

⁵ Section 458.313, F.S.

⁶ Section 459.0055(1), F.S.

⁷ However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than five years after the applicant obtained the passing score on the licensure examination.

- Graduate from a school or college of podiatric medicine or chiropody recognized and approved by the Council on Podiatry Education of the American Podiatric Medical Association;
- Successfully complete a one-year residency program approved by the podiatric board or have continuously practiced for 10 years in another state; and
- Obtain a passing score on the three parts of the national examination conducted by the National Board of Podiatric Medical Examiners.⁸

Unlicensed Practice of a Health Care Profession

Administrative Penalties

Florida law prohibits an individual from practicing a regulated health care profession without a license. An individual must meet minimum education and training requirements to become licensed and practice a health care profession.⁹ An unlicensed individual providing healthcare services is subject to administrative and criminal penalties. DOH may issue a cease and desist letter to such a person and impose, by citation, an administrative penalty of up to \$5,000 per offense.¹⁰ DOH may also seek a civil penalty of up to \$5,000 for each offense through the circuit court, in addition to or in lieu of the administrative penalty.¹¹ An individual practicing, attempting to practice or offering to practice, a health care profession without an active, valid Florida license is subject to criminal penalties, in addition to any administrative and civil penalties incurred by the unlicensed individual.¹²

Criminal Penalties

It is a third degree felony to practice medicine or attempt to practice medicine without a Florida license, and it is a first degree misdemeanor to lead the public to believe one is licensed to practice as a medical doctor or is engaged in the licensed practice of medicine, without holding a valid, active license.¹³ It is a third degree felony to practice osteopathic medicine or attempt to practice osteopathic medicine without a Florida license.¹⁴

It is a third degree felony to practice podiatric medicine or attempt to practice medicine without a Florida license, and it is a first degree misdemeanor to use the title "podiatrist," "doctor of podiatry," "doctor of podiatric medicine," "foot clinic," "foot doctor," "quiropedista," or any other name, title, or phrase that would lead the public to believe that such person is practicing podiatric medicine, if the person does not hold a Florida license.¹⁵

Board Certification and Florida Licensure

DOH does not license physicians by specialty or subspecialty; however, current law limits which physicians may hold themselves out as board-certified specialists. An allopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties (ABMS) or other recognizing agency¹⁶ approved by the allopathic board.¹⁷ Additionally, an allopathic physician may not

⁸ Rule 64B18-11.002, F.A.C.

⁹ s. 456.065(1), F.S.

¹⁰ s. 456.065, F.S. Each day that the unlicensed practice continues after issuance of a notice to cease and desist constitutes a separate offense.

¹¹ s. 456.065(2)(c), F.S.

¹² s. 456.065(2)(d), F.S.

¹³ Section 458.327, F.S. A third degree felony is punishable by a term of imprisonment not exceeding five years and a fine not to exceed \$5,000. A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine not to exceed \$1,000. Penalties may be enhanced under certain circumstances. See ss. 775.082, 775.083, and 775.084.

¹⁴ Section 459.013, F.S.

¹⁵ Section 461.012, F.S.

¹⁶ The allopathic board has approved the specialty boards of the ABMS as recognizing agencies. Rule 64B8-11.001(1)(f), F.A.C.

¹⁷ Section 458.3312, F.S.

hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the allopathic board.¹⁸ Similarly, an osteopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency¹⁹ approved by the board.²⁰

A podiatric physician may not hold himself or herself out as possessing a credential or certification from an organization unless the organization is approved by the podiatric board.²¹ By rule, the American Podiatric Medical Association, the National Council of Competency Assurance, or any of their recognized component or affiliate organizations are approved.²²

Effect of Proposed Legislation

HB 309 prohibits a health care practitioner from using certain titles unless the health care practitioner is licensed and authorized to use such title as an allopathic physician under chapter 458, F.S., an osteopathic physician under chapter 459, F.S., or a podiatric physician under chapter 461. DOH may impose penalties against any health care practitioner who knowingly uses one of the following titles but is not authorized to do so:

Physician	Gynecologist	Ophthalmologist
Surgeon	Hematologist	Orthopedic Surgeon
Medical Doctor	Hospitalist	Orthopedist
Doctor of Osteopathy	Internist	Osteopath
M.D.	Interventional Pain	Otologist
Anesthesiologist ²³	Medicine Physician	Otolaryngologist
Cardiologist	Laryngologist	Otorhinolaryngologist
Dermatologist	Nephrologist	Pathologist
Endocrinologist	Neurologist	Pediatrician
Gastroenterologist	Obstetrician	Podiatrist
General Practitioner	Oncologist	Primary Care Physician
Proctologist	Radiologist	Rhinologist
Psychiatrist	Rheumatologist	Urologist

In addition to these titles, the bill prohibits an unauthorized person from using any other words, letters, abbreviations, or insignia that indicates or implies that he or she is authorized to practice as such.

If a board or DOH, if there is no board, finds that a health care practitioner has violated this provision, the bill authorizes the board or DOH to:²⁴

- Refuse to certify or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;

¹⁸ Id.

¹⁹ The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Rule 64B15-14.001(h), F.A.C.

²⁰ Section 459.0152, F.S.

²¹ Rule 64B18-14.004(i), F.A.C.

²² Id.

²³ The bill defines an anesthesiologist as an allopathic or osteopathic physician who holds an active, unrestricted license; who has successfully completed an anesthesiology training program by the Accreditation Council on Graduate Medical Education or its equivalent, or the American Osteopathic Association; and who is certified by the American Board of Certification or the American Osteopathic Board of Anesthesiology, or is eligible to take the certification exam of either board, or is certified by the Board of Certification in Anesthesiology affiliated with the American Association of Physician Specialties. See ss. 458.3475(1) and 459.023(1), F.S.

²⁴ Section 426.072(2), F.S.

- Restrict the license;
- Impose an administrative fine, not to exceed \$10,000 for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation for a period of time and subject to the conditions of the board or DOH, if there is no board;
- Impose corrective action;
- Require the licensee to refund of fees billed and collected from the patient or a third party on behalf of the patient; or
- Require that the licensee undergo remedial education.

In determining which penalty to impose, the board or DOH, if there is no board, must consider what is necessary to protect the public or to compensate the patient.²⁵

The bill takes effect upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends s. 456.072, F.S.; relating to grounds for discipline; penalties; enforcement.

Section 2: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DOH may experience an increase in revenue if health care practitioners are found to have violated the provisions of the bill and if DOH imposes an administrative fine. It is not known how many health care practitioners may violate the provisions of the bill.

2. Expenditures:

DOH may experience an indeterminate, but likely insignificant, negative fiscal impact due to an increase in investigation and enforcement actions. It is not known how many health care practitioners may violate the provisions of the bill but it is estimated current resources are adequate to absorb these costs.²⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Health care practitioners who are found to have violated the provisions of the bill may be required to pay an administrative fine or otherwise be disciplined.

D. FISCAL COMMENTS:

None.

²⁵ Id.

²⁶ Department of Health, *Agency Legislative Analysis for HB 309*, on file with the Health Quality Subcommittee.

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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill limits the use of the term "physician" to health care practitioners licensed under chs. 458, 459, and 461, F.S., which appears to conflict with several statutory provisions that describe the term "physician":

- Sections 456.039 and 456.031, F.S., include those licensed under ch. 460, F.S., (chiropractic medicine) in the term;
- Section 456.056, F.S., provides that the term includes those licensed under ch. 460, F.S., and ch. 463, F.S. (optometry);
- Section 456.073(12)(b), F.S., provides that the term includes those licensed under ch. 460, F.S., and ch. 466, F.S. (dentistry); and
- Section 456.44, F.S., includes those licensed under ch. 466, F.S., in its description of a physician.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to prohibited acts by health care practitioners; amending s. 456.072, F.S.; authorizing disciplinary action to be enforced by the Department of Health for the use of specified names or titles without a valid license or certification to practice as such; providing a definition; providing an effective date.

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

Section 1. Paragraph (pp) is added to subsection (1) of section 456.072, Florida Statutes, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp)1. Knowingly using the name or title "physician," "surgeon," "medical doctor," "doctor of osteopathy," "M.D.," "anesthesiologist," "cardiologist," "dermatologist," "endocrinologist," "gastroenterologist," "general practitioner," "gynecologist," "hematologist," "hospitalist," "internist," "interventional pain medicine physician," "laryngologist," "nephrologist," "neurologist," "obstetrician," "oncologist," "ophthalmologist," "orthopedic surgeon," "orthopedist,"

26 "osteopath," "otologist," "otolaryngologist,"
 27 "otorhinolaryngologist," "pathologist," "pediatrician,"
 28 "podiatrist," "primary care physician," "proctologist,"
 29 "psychiatrist," "radiologist," "rheumatologist," "rhinologist,"
 30 or "urologist," or any other words, letters, abbreviations, or
 31 insignia indicating or implying that he or she is authorized by
 32 chapter 458, chapter 459, or chapter 461 to practice as such. If
 33 the department finds any person guilty of the grounds set forth
 34 in this paragraph, it may enter an order imposing one or more of
 35 the penalties provided in subsection (2).

36 2. For purposes of this paragraph, "anesthesiologist" has
 37 the same meaning as provided in s. 458.3475 or s. 459.023.

38 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 471 Council on Physician Assistants
SPONSOR(S): Plasencia
TIED BILLS: IDEN./SIM. **BILLS:** SB 584

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 1 N	Siples	McElroy
2) Health Care Appropriations Subcommittee		Mielke <i>BM</i>	Clark <i>DC</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

A physician assistant (PA) is licensed to perform health care services delegated by a supervising physician, in the specialty areas in which he or she has been trained. In Florida, PAs are regulated by the 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.

The Council consists of five members including three physicians who are members of the Board of Medicine, one physician who is a member of the Board of Osteopathic Medicine, and one licensed PA appointed by the Surgeon General. The Council advises the Board of Medicine and the Board of Osteopathic Medicine on issues related to PA licensure and regulation.

HB 471 revises the composition of the Council on Physician Assistants. The bill retains the number of Council members as five, but reduces the total number of physician members from four to two and increases the number of PA members from one to three. Therefore, PAs will now hold a majority of the Council membership.

The bill has no fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Physician Assistants

A physician assistant (PA) is a health care practitioner who practices under the direct or indirect supervision of an allopathic or osteopathic physician. PAs may provide a number of medical services including:¹

- Physical examinations;
- Diagnosis and treatment of illness;
- Counsel on preventative health care;
- Assistance in surgery; and
- Prescribing of medication.

In Florida, PAs are regulated by the 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. PAs are governed by the respective physician practice acts since PAs may only practice under the supervision of an allopathic or osteopathic physician.

Council on Physician Assistants

The Council consists of five members including three physicians who are members of the Board of Medicine, one physician who is a member of the Board of Osteopathic Medicine, and one licensed PA appointed by the Surgeon General.² Two of the physician members must supervise PAs in their practices.³ Each member serves a 4-year term.⁴ The Council is responsible for:⁵

- Making recommendations to the Department of Health regarding the licensure of PAs;
- Developing rules for the regulation of PAs for consideration for adoption by the boards;⁶
- Making recommendations to the boards regarding all matters relating to PAs;
- Addressing concerns and problems of practicing PAs to ensure patient safety;
- Denying, restricting, or placing conditions on the license of PA who fails to meet the licensing requirements;⁷ and
- Establish a formulary of medicinal drugs that a PA may not prescribe.⁸

The Board of Medicine and the Board of Osteopathic Medicine is responsible for imposing disciplinary action against the license of a PA.⁹ The Council does not discipline PAs.

¹ Florida Academy of Physician Assistance, *What is a PA*, available at <https://www.fapaonline.org/page/whatisapa> (last visited January 14, 2020).

² Sections 458.347(9)(a) and 459.022(9)(a), F.S.

³ Sections 458.347(9)(b) and 459.022(9)(b), F.S.

⁴ Id.

⁵ Sections 458.347(9)(c) and 459.022(9)(c), F.S. The boards may delegate powers and duties to the Council as they deem necessary.

⁶ Both the Boards of Medicine and Osteopathic Medicine must accept and approve identical language prior to rule adoption.

⁷ Sections 458.347(9)(d) and 459.022(9)(d), F.S.

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

⁹ Sections 458.347(7)(f) and 459.022(7)(f), F.S.

PA Scope of Practice

PAs may only practice under the direct or indirect supervision of an allopathic or osteopathic physician with whom they have a clinical relationship.¹⁰ A supervising physician may only delegate tasks and procedures to the PA that are within the supervising physician's scope of practice.¹¹ The supervising physician is responsible and liable for any acts or omissions of the PA and may not supervise more than four PAs at any time.¹²

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.¹³

A supervising physician decides whether to permit a PA to perform a task or procedure under direct or indirect supervision based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.¹⁴

Effect of Proposed Changes

HB 471 revises the composition of the Council. The total membership of the Council will remain five. However, the bill requires the appointment of one physician who is a member of the Board of Medicine, rather than three. The bill requires the appointment of three licensed PAs, rather than one. The number of osteopathic physicians on the Council does not change and remains one. Each of the physician members of the Council must supervise PAs in his or her respective practice.

The bill does not alter the duties or responsibilities of the Council.

The bill provides an effective date of July 1, 2020.

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, 2020.

¹⁰ Sections 458.347(2)(f), F.S., and 459.022(2)(f), F.S., define supervision as responsible supervision and control which requires the easy availability or physical presence of the licensed physician for consultation and direction of the PA.

¹¹ Rules 64B8-30.012, F.A.C., and 64B15-6.010, F.A.C.

¹² Sections 458.347(15), F.S., and 459.022(15), F.S.

¹³ Rules 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

¹⁴ "Direct supervision" refers to the physical presence of the supervising physician so that the physician is immediately available to the PA when needed. "Indirect supervision" refers to the reasonable physical proximity of the supervising physician to the PA or availability by telecommunication. *Supra* note 13.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

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. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 471

2020

1 A bill to be entitled
 2 An act relating to the Council on Physician
 3 Assistants; amending ss. 458.347 and 459.022, F.S.;
 4 revising requirements relating to the Council on
 5 Physician Assistants membership; conforming provisions
 6 to changes made by the act; providing an effective
 7 date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Paragraphs (a) and (b) of subsection (9) of
 12 section 458.347, Florida Statutes, are amended to read:

13 458.347 Physician assistants.—

14 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on
 15 Physician Assistants is created within the department.

16 (a) The council shall consist of five members appointed as
 17 follows:

18 1. The chairperson of the Board of Medicine shall appoint
 19 one member ~~three members~~ who is a physician and member ~~are~~
 20 ~~physicians and members~~ of the Board of Medicine who supervises—
 21 ~~One of the physicians must supervise~~ a physician assistant in
 22 the physician's practice.

23 2. The chairperson of the Board of Osteopathic Medicine
 24 shall appoint one member who is a physician and a member of the
 25 Board of Osteopathic Medicine who supervises a physician

26 assistant in the physician's practice.

27 3. The State Surgeon General or his or her designee shall
 28 appoint three a fully licensed physician assistants ~~assistant~~
 29 licensed under this chapter or chapter 459.

30 (b) ~~Two of the members appointed to the council must be~~
 31 ~~physicians who supervise physician assistants in their practice.~~

32 Members shall be appointed to terms of 4 years, except that of
 33 the initial appointments, two members shall be appointed to
 34 terms of 2 years, two members shall be appointed to terms of 3
 35 years, and one member shall be appointed to a term of 4 years,
 36 as established by rule of the boards. Council members may not
 37 serve more than two consecutive terms. The council shall
 38 annually elect a chairperson from among its members.

39 Section 2. Paragraphs (a) and (b) of subsection (9) of
 40 section 459.022, Florida Statutes, are amended to read:

41 459.022 Physician assistants.—

42 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on
 43 Physician Assistants is created within the department.

44 (a) The council shall consist of five members appointed as
 45 follows:

46 1. The chairperson of the Board of Medicine shall appoint
 47 one member ~~three members~~ who is a physician and member are
 48 ~~physicians and members~~ of the Board of Medicine who supervises.
 49 ~~One of the physicians must supervise~~ a physician assistant in
 50 the physician's practice.

51 2. The chairperson of the Board of Osteopathic Medicine
 52 shall appoint one member who is a physician and a member of the
 53 Board of Osteopathic Medicine who supervises a physician
 54 assistant in the physician's practice.

55 3. The State Surgeon General or her or his designee shall
 56 appoint three a fully licensed physician assistants ~~assistant~~
 57 licensed under chapter 458 or this chapter.

58 (b) ~~Two of the members appointed to the council must be~~
 59 ~~physicians who supervise physician assistants in their practice.~~

60 Members shall be appointed to terms of 4 years, except that of
 61 the initial appointments, two members shall be appointed to
 62 terms of 2 years, two members shall be appointed to terms of 3
 63 years, and one member shall be appointed to a term of 4 years,
 64 as established by rule of the boards. Council members may not
 65 serve more than two consecutive terms. The council shall
 66 annually elect a chairperson from among its members.

67 Section 3. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 485 Athletic Trainers
SPONSOR(S): Antone
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 226

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	13 Y, 0 N	Siples	McElroy
2) Health Care Appropriations Subcommittee		Mielke <i>BW</i>	Clark <i>PC</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Athletic trainers provide service and care to individuals related to the prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of a physically active person who sustained an injury, illness, or other condition involving exercise, sport, recreation, or related physical activity. In Florida, the Board of Board of Athletic Training (Board) licenses and regulates athletic trainers. The Board of Certification provides certification of athletic trainers.

Prior to 2004, athletic trainers could qualify for licensure by completing training through a Board of Certification internship program. Current law does not allow applicants who completed an internship prior to 2004 to qualify for licensure. An athletic trainer must renew his or her license biennially. For licensure renewal, licensees must show current certification from the Board of Certification, but there is no statutory requirement that a licensee maintain such certification without lapse and in good standing.

HB 485 revises licensure requirements, which include a new pathway to licensure and requiring athletic trainers to maintain certification for licensure renewal. The bill requires that an athletic trainer work within his or her scope of practice, as defined by Board rules, and requires the Board to adopt rules that govern the supervision of athletic training students.

The bill has an insignificant, negative fiscal impact on the Department of Health, which can be absorbed within existing resources. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Athletic Trainers

Athletic trainers provide service and care to individuals related to the prevention, recognition, evaluation, management, disposition, treatment, or rehabilitation of a physically active person who sustained an injury, illness, or other condition involving exercise, sport, recreation, or related physical activity.¹

Board of Athletic Training

The Board of Athletic Training within the Department of Health licenses and regulates athletic trainers in this state.² The Board of Athletic Training must establish, by rule:³

- The allowable scope of practice regarding the use of equipment, procedures, and medication;
- Mandatory requirements and guidelines for communication between athletic trainers and physicians;
- Licensure requirements and examination;
- Continuing education requirements;
- Fees;
- Records and reports to be filed by licensees;
- Protocols; and
- Other requirements necessary to regulate the practice of athletic training.

Licensure Requirements

To be licensed as an athletic trainer, an applicant must:⁴

- Hold a bachelor's degree or higher from an accredited athletic training degree program and pass the national examination to be certified by the Board of Certification;⁵
- Hold a current certification from the Board of Certification, if the applicant graduated before 2004;
- Hold a current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator at the professional rescue level; and
- Pass a background screening.

Prior to 2004, athletic trainers could qualify for licensure by completing training through a Board of Certification internship program.⁶ Current law does not allow applicants who completed an internship prior to 2004 to qualify for licensure.

¹ Section 468.701(2), F.S.

² Sections 468.703 and 468.705, F.S.

³ Section 468.705, F.S.

⁴ Section 468.707, F.S.

⁵ The Board of Certification is a not-for-profit credentialing agency that provides a certification program for the entry level athletic training profession. See Board of Certification for the Athletic Trainer, *What is the BOC?*, available at <http://www.bocatc.org/about-us/#what-is-the-boc> (last visited January 14, 2020).

⁶ See Department of Health, *2020 Agency Legislative Bill Analysis for HB 713*, (Nov. 19, 2019), at p. 6, on file with the Health Quality Subcommittee. HB 713 includes provisions that are substantively similar to the provisions in HB 485.

An athletic trainer must renew his or her license biennially. During each biennial renewal period, an athletic trainer must complete at least 24 hours of continuing education, hold a current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator, and a current certification from the Board of Certification.⁷ Although licensees must show current certification from the Board of Certification, there is no statutory requirement that a licensee maintain such certification without lapse and in good standing.

To maintain certification from the Board of Certification, an athletic trainer must:⁸

- Adhere to the Board of Certification standards of professional practice;
- Demonstrate ongoing certification in emergency cardiac care;
- Pay certification maintenance fees; and
- Biennially complete 50 hours of continuing education.

Scope of Practice

An athletic trainer must practice under the direction of a Florida-licensed allopathic, osteopathic, or chiropractic physician,⁹ and may provide care such as:¹⁰

- Injury prevention, recognition, and evaluation;
- First aid and emergency care;
- Injury management and treatment;
- Rehabilitation through the use of safe and appropriate physical rehabilitation practices;
- Conditioning;
- Performance of tests and measurements to prevent, evaluate, and monitor acute and chronic injuries;
- Therapeutic exercises;
- Massage;
- Cryotherapy and thermotherapy;
- Therapy using other agents such as water, electricity, light, or sound; and
- The application of topical prescription medications at the direction of a physician.

The physician must communicate his or her direction through oral or written prescriptions or protocols, and the athletic trainer must provide service or care in the manner dictated by the physician.¹¹ A licensed athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or service that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.¹²

Effect of Proposed Changes

HB 485 requires athletic trainers to work within her or his scope of practice as defined by Board of Athletic Training in rule. The bill also requires the Board of Athletic Training to establish rules for the supervision of an athletic training student.

The bill adds another route to licensure by authorizing individuals who hold a bachelor's degree, completed a Board of Certification internship, and hold a certification from the Board of Certification to

⁷ Section 468.711, F.S.

⁸ Board of Certification, *Certification Maintenance Requirements for Certified Athletic Trainers*, available at <https://online.flowpaper.com/7f6907b2/201819CertMaintenanceRequirements/#page=1> (last visited January 14, 2020).

⁹ Section 468.713, F.S.

¹⁰ Rule 64B33-4.001, F.A.C.

¹¹ *Supra* note 9.

¹² Section 468.701(1), F.S.

be eligible for licensure. The bill establishes that a licensed athletic trainer must maintain his or her certification from the Board of Certification in good standing to be eligible for licensure renewal.

The bill relocates a substantive provision, which prohibits an athletic trainer from providing care or services for which the athletic trainer has not had education or training, from the definition of "athletic trainer" to a section of law that addresses the responsibilities of a licensed athletic trainer.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amends s. 468.701, F.S., relating to definitions.

Section 2: Amends s. 468.707, F.S., relating to licensure requirements.

Section 3: Amends s. 468.711, F.S., relating to renewal of license; continuing education.

Section 4: Amends s. 468.713, F.S., relating to responsibilities of athletic trainers.

Section 5: Amends s. 468.723, F.S., relating to exemptions.

Section 6: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOH will incur insignificant costs related to rulemaking to implement the bill's provisions, which can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those who hold a bachelor's degree and complete a Board of Certification internship did not qualify for licensure under the current law; however, those individuals would be eligible for licensure under the bill's provision.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Board of Athletic Training has sufficient rulemaking authority to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to athletic trainers; amending s.
 3 468.701, F.S.; revising the definition of the term
 4 "athletic trainer"; deleting a requirement that is
 5 relocated to another section; amending s. 468.707,
 6 F.S.; revising athletic trainer licensure
 7 requirements; amending s. 468.711, F.S.; requiring
 8 certain licensees to maintain certification in good
 9 standing without lapse as a condition of renewal of
 10 their athletic trainer licenses; amending s. 468.713,
 11 F.S.; requiring that an athletic trainer work within a
 12 specified scope of practice; relocating an existing
 13 requirement that was stricken from another section;
 14 amending s. 468.723, F.S.; requiring the direct
 15 supervision of an athletic training student to be in
 16 accordance with rules adopted by the Board of Athletic
 17 Training; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Subsection (1) of section 468.701, Florida
 22 Statutes, is amended to read:

23 468.701 Definitions.—As used in this part, the term:
 24 (1) "Athletic trainer" means a person licensed under this
 25 part who has met the requirements of ~~under~~ this part, including

26 | the education requirements established as set forth by the
 27 | Commission on Accreditation of Athletic Training Education or
 28 | its successor organization and necessary credentials from the
 29 | Board of Certification. ~~An individual who is licensed as an~~
 30 | ~~athletic trainer may not provide, offer to provide, or represent~~
 31 | ~~that he or she is qualified to provide any care or services that~~
 32 | ~~he or she lacks the education, training, or experience to~~
 33 | ~~provide, or that he or she is otherwise prohibited by law from~~
 34 | ~~providing.~~

35 | Section 2. Section 468.707, Florida Statutes, is amended
 36 | to read:

37 | 468.707 Licensure requirements.—Any person desiring to be
 38 | licensed as an athletic trainer shall apply to the department on
 39 | a form approved by the department. An applicant shall also
 40 | provide records or other evidence, as determined by the board,
 41 | to prove he or she has met the requirements of this section. The
 42 | department shall license each applicant who:

43 | (1) Has completed the application form and remitted the
 44 | required fees.

45 | (2) ~~For a person who applies on or after July 1, 2016,~~ Has
 46 | submitted to background screening pursuant to s. 456.0135. The
 47 | board may require a background screening for an applicant whose
 48 | license has expired or who is undergoing disciplinary action.

49 | (3) (a) Has obtained, at a minimum, a bachelor's
 50 | ~~baccalaureate or higher~~ degree from a college or university

51 professional athletic training degree program accredited by the
 52 Commission on Accreditation of Athletic Training Education or
 53 its successor organization recognized and approved by the United
 54 States Department of Education or the Commission on Recognition
 55 of Postsecondary Accreditation, approved by the board, or
 56 recognized by the Board of Certification, and has passed the
 57 national examination to be certified by the Board of
 58 Certification; or-

59 (b)(4) Has obtained, at a minimum, a bachelor's degree,
 60 has completed the Board of Certification internship
 61 requirements, and holds ~~If graduated before 2004,~~ has a current
 62 certification from the Board of Certification.

63 (4)(5) Has current certification in both cardiopulmonary
 64 resuscitation and the use of an automated external defibrillator
 65 set forth in the continuing education requirements as determined
 66 by the board pursuant to s. 468.711.

67 (5)(6) Has completed any other requirements as determined
 68 by the department and approved by the board.

69 Section 3. Subsection (3) of section 468.711, Florida
 70 Statutes, is amended to read:

71 468.711 Renewal of license; continuing education.-

72 (3) If initially licensed after January 1, 1998, the
 73 licensee must be currently certified by the Board of
 74 Certification or its successor agency and maintain that
 75 certification in good standing without lapse.

76 Section 4. Section 468.713, Florida Statutes, is amended
 77 to read:

78 468.713 Responsibilities of athletic trainers.—

79 (1) An athletic trainer shall practice under the direction
 80 of a physician licensed under chapter 458, chapter 459, chapter
 81 460, or otherwise authorized by Florida law to practice
 82 medicine. The physician shall communicate his or her direction
 83 through oral or written prescriptions or protocols as deemed
 84 appropriate by the physician for the provision of services and
 85 care by the athletic trainer. An athletic trainer shall provide
 86 service or care in the manner dictated by the physician.

87 (2) An athletic trainer shall work within his or her
 88 allowable scope of practice as specified in board rule under s.
 89 468.705. An athletic trainer may not provide, offer to provide,
 90 or represent that he or she is qualified to provide any care or
 91 services that he or she lacks the education, training, or
 92 experience to provide or that he or she is otherwise prohibited
 93 by law from providing.

94 Section 5. Subsection (2) of section 468.723, Florida
 95 Statutes, is amended to read:

96 468.723 Exemptions.—This part does not prohibit ~~prevent~~ or
 97 restrict:

98 (2) An athletic training student acting under the direct
 99 supervision of a licensed athletic trainer. For purposes of this
 100 subsection, "direct supervision" means the physical presence of

101 an athletic trainer so that the athletic trainer is immediately
102 available to the athletic training student and able to intervene
103 on behalf of the athletic training student. The supervision must
104 comply with board rule ~~in accordance with the standards set~~
105 ~~forth by the Commission on Accreditation of Athletic Training~~
106 ~~Education or its successor.~~

107 Section 6. This act shall take effect July 1, 2020.