

**STORAGE NAME:** h3973s1.grr

**DATE:** April 10, 1998

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
GOVERNMENTAL RULES AND REGULATIONS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB 3973

**RELATING TO:** Pharmacy Practice

**SPONSOR(S):** Committee on Health Care Standards and Regulatory Reform and Representative Gay

**COMPANION BILL(S):** SB 2126(s), HB 3865(c), SB 974(c)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 6 NAYS 0
  - (2) GOVERNMENTAL RULES AND REGULATIONS
  - (3) FINANCE AND TAXATION
  - (4) HEALTH AND HUMAN SERVICES APPROPRIATIONS
  - (5)
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**I. SUMMARY:**

CS/HB 3973 deletes language implementing a variable dispensing fee for prescribed medicines for Medicaid patients.

It revises the definition of the "practice of pharmacy" to include evaluating patient health as it relates to drug therapy, assisting patients in management of their therapy, communication with other health care providers, research, and enabling pharmacists to administer immunizations under established protocols in agreement with a medical practitioner or county health department.

While acting as an employee of a specific pharmacy, such an employee may not enter into an agreement to administer immunizations without the written approval of the owner of the pharmacy.

The Agency for Health Care Administration indicates that repeal of the variable dispensing fee will involve a fiscal impact; there is no fiscal impact on local government, or the private sector in general.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 465, F.S., regulates the practice of pharmacy. The Board of Pharmacy is currently composed of nine members, two of which are consumers and the remaining seven are pharmacists.

During the 1997 Legislative Session, language passed which directed the Agency for Health Care Administration to implement a variable dispensing fee. The decision was based on information suggesting that the dispensing fee for pharmacy providers participating in the State Employee Health Benefit Plan was lower than Medicaid, when in fact, it was higher. No study was conducted to determine how this fee would affect efficiency, economy, and access to care. Pharmacists in a recent court case involving this issue testified that if the variable fee were implemented, certain services may have to be cut back to this population. The decision on the current court case is not available at this time.

Section 465.003(12) defines the "practice of pharmacy" as including "compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug and consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders." The phrase also includes "any other act, service, operation, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients."

Pharmacists not only dispense medications and consult with patients regarding their medications, they are often asked to review and monitor a patient's progress to insure a positive response to drug therapy. This does not give a pharmacist the authority to diagnose and treat patients.

Currently, pharmacists are not authorized to administer immunizations. There are between 25 and 30 states which allow this procedure.

Present regulations allow pharmacists to order and evaluate laboratory tests in nursing homes and long term care facilities.

"Workload" is identified as one of the most pressing issues facing the industry today. No study has been conducted to gather and review information on patient care environments in pharmacies.

**B. EFFECT OF PROPOSED CHANGES:**

The variable dispensing fee for prescribed medicines for Medicaid patients is deleted.

The definition of the "practice of pharmacy" is amended to include evaluating patient health as it relates to drug therapy, assisting patients in management of their therapy, communication with other health care providers, research, and enabling pharmacists to administer immunizations under a voluntary protocol.

Clarifies the definition of "other pharmaceutical services".

Clarifies that the decision by a supervisory practitioner to enter into an established protocol is strictly that of the practitioner. Additionally, a pharmacist, while acting as an employee, may not enter into a protocol to administer immunizations without the written approval of the owner of the pharmacy.

**C. APPLICATION OF PRINCIPLES:**

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Family, pharmacist practitioner, and supervisory physician or county health department.

- (2) Who makes the decisions?

Family/individual after consultation with pharmacist practitioner or other health care provider.

- (3) Are private alternatives permitted?

It is private-sector based.

- (4) Are families required to participate in a program?

No.

- (5) Are families penalized for not participating in a program?

No.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

**D. STATUTE(S) AFFECTED:**

Sections 409.908 and 465.003, F.S.

**E. SECTION-BY-SECTION RESEARCH:**

**Section 1.** Amends s. 409.908, F.S., to remove the “variable dispensing fee” provision that was enacted in 1997.

**Section 2.** Amends s. 465.003, F.S., to provide in the definition of the “Practice of the profession of pharmacy” the authorization to perform evaluation and monitoring services that assist a patient in managing drug therapy. It authorizes the pharmacist to consult with other practitioners involved in the patient’s health care and allows pharmacists to administer immunizations under protocol with a licensed physician or public health unit.

Provides clarification of the definition of “other pharmaceutical services”.

Clarifies that the decision by a supervisory practitioner to enter into an established protocol is a professional decision of the practitioner.

Provides that a pharmacist may not enter into a protocol that is to be performed while acting as an employee without the written approval of the owner of the pharmacy.

**Section 4.** Provides an effective date of July 1, 1998.

**III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:**

1. <u>Non-recurring Effects:</u>	Year 1	Year 2
	None	None

2. Recurring Effects:

Medicaid Services:

Revenues:

Federal Grants (Title XIX)	\$3,445,746	\$3,445,746
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Expenditures:

Prescribed Medicine/Drugs	\$4,382,726	\$4,382,726
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Prepaid Health Plans /HMOs	\$1,791,340	\$1,791,340
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Total Expenditures	\$6,174,066	\$6,174,066
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3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Revenues:

Federal Grants (Title XIX)		
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Medical Care Trust Fund	\$3,445,746	\$3,445,746
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Expenditures:

General Revenue	\$2,728,320	\$2,728,320
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Medical Care Trust	\$3,445,746	\$3,445,746
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Total Expenditures	\$6,174,066	\$6,174,066
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Revenue Less Expenditures	(\$2,728,320)	(\$2,728,320)
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Pharmacies will continue receiving dispensing fees at \$4.23 per prescription and maintain existing Medicaid revenues relating to dispensing fees. Provisions are made for authority of performance of additional services by licensed pharmacist practitioners.

3. Effects on Competition, Private Enterprise and Employment Markets:

Permits pharmacists to administer immunizations under certain situations and authorizes pharmacy practitioner to provide certain primary care, professional referral, and consulting services upon completion of certain required instruction and licensure. This may shift a small portion of health care revenues from physicians and clinics to pharmacists.

D. FISCAL COMMENTS:

The General Appropriations Act for Fiscal Year 1997-98 included an issue to implement a variable dispensing fee. The policy is under legal challenge and has not been implemented. The estimating conference expenditure projections for FY 1998-99 assume that the policy will be upheld and will be in effect for the year. Should HB 3973 become law, the variable dispensing fee will be eliminated and Medicaid will return to paying \$4.23 per prescription.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.



V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 31, 1998, the Committee on Health Care Standards and Regulatory Reform adopted a committee substitute to HB 3973. The differences between the original bill and the committee substitute are:

-Language is added to clarify the definition of "other pharmaceutical services";

-Language is added to emphasize that it is the professional decision of the practitioner to enter into an established protocol;

-Language relating to "pharmacist certification" is removed; and

-Clarification is provided for the fact that a pharmacist may not enter into a protocol that is to be performed (while acting as an employee) without the written approval of the owner of the pharmacy.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS AND REGULATORY REFORM:

Prepared by:

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