

By Representatives Pruitt and Sanderson

1                                   A bill to be entitled  
 2           An act relating to delivery of health care  
 3           services; creating a catastrophic  
 4           pharmaceutical expense assistance program;  
 5           providing eligibility; prescribing duties of  
 6           the Agency for Health Care Administration and  
 7           other entities; providing for rules; requiring  
 8           a report; requiring pharmacies that participate  
 9           in the program or in Medicaid to agree to  
 10          limitations on compensation; providing for  
 11          certain professional regulatory boards to adopt  
 12          rules to discourage their respective  
 13          practitioners from accepting certain types of  
 14          compensation from pharmaceutical manufacturers;  
 15          requiring disclosure of certain information  
 16          relating to such compensation; providing  
 17          legislative intent; providing appropriations;  
 18          providing an effective date.

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

21  
 22           Section 1.   Catastrophic pharmaceutical expense  
 23 assistance.--

24           (1) PROGRAM ESTABLISHED.--There is established a  
 25 program to provide financial assistance to low-income elderly  
 26 individuals with catastrophic pharmaceutical expenses.

27           (2) ELIGIBILITY.--Eligibility is limited to those  
 28 individuals who do not qualify for assistance under the  
 29 Medicaid program and who:

30           (a) Are over the age of 65;  
 31

1           (b) Have an income at or below 250 percent of the  
2 federal poverty level; and

3           (c) Have out-of-pocket prescription expenses that  
4 exceed or are projected to exceed 10 percent of their annual  
5 income, after payments by other liable entities are deducted.

6           (3) BENEFITS.--Medications covered under the  
7 catastrophic pharmaceutical expense assistance program are  
8 those covered under the Medicaid program in section  
9 409.906(20), Florida Statutes. Payments shall be for the total  
10 amount of prescription drug expenses above 10 percent of an  
11 individual's annual income.

12           (4) ADMINISTRATION.--The catastrophic pharmaceutical  
13 expense assistance program shall be administered by the Agency  
14 for Health Care Administration, in consultation with the  
15 Department of Elderly Affairs. To the extent possible,  
16 administration of the program, including eligibility  
17 determination, claims processing, and reporting, shall use  
18 existing administrative mechanisms, including the Medicaid  
19 fiscal agent system and area agencies on aging.

20           (a) The Agency for Health Care Administration shall  
21 make payments for prescription drugs on behalf of eligible  
22 individuals.

23           (b) The Agency for Health Care Administration and the  
24 Department of Elderly Affairs shall develop a single-page  
25 application for the catastrophic pharmaceutical expense  
26 assistance program.

27           (c) The Agency for Health Care Administration shall,  
28 by rule, establish eligibility requirements, limits on  
29 participation, benefit limitations, a requirement for generic  
30 drug substitution, and other program parameters comparable to  
31

1 those of the Medicaid program for the catastrophic  
2 pharmaceutical expense assistance program.

3 (d) By January 1 of each year, the Agency for Health  
4 Care Administration shall report to the Legislature on the  
5 operation of the program. The report shall include information  
6 on the number of individuals served, use rates, and  
7 expenditures under the program. The report shall also address  
8 the impact of the program on reducing unmet pharmaceutical  
9 drug needs among the elderly and recommend programmatic  
10 changes.

11 (5) NONENTITLEMENT.--The catastrophic pharmaceutical  
12 expense assistance program is not an entitlement and shall be  
13 the payor of last resort.

14 Section 2. Medicare prescription discount program.--As  
15 a condition of participation in the Florida Medicaid program  
16 or the catastrophic pharmaceutical expense assistance program,  
17 a pharmacy must agree that the charge to any Medicare  
18 beneficiary showing a Medicare card when presenting a  
19 prescription shall be no greater than the amount paid to that  
20 pharmacy for ingredients and dispensing under the Florida  
21 Medicaid program, plus 2.5 percent of the Medicaid payment for  
22 the ingredients of the prescription.

23 Section 3. The Legislature recognizes that the state  
24 has a compelling interest in maintaining the integrity of  
25 health care professions. The Legislature finds that physicians  
26 and other health care practitioners have a fiduciary  
27 responsibility to act in the best interests of their patients,  
28 who place their trust in, and are dependent on, the  
29 professional expertise of health care practitioners when  
30 seeking their services. The Legislature finds that the nature  
31 of the relationship between the patient and the health care

1 practitioner and the underlying trust in that relationship  
2 prompt the need for guidelines to avoid the receipt by health  
3 care practitioners of gifts, payments, subsidies, or other  
4 financial inducements from pharmaceutical manufacturers which  
5 adversely shape the health care practitioners' independent  
6 professional judgment and which undermine their patients'  
7 access to treatment, course of care, and clinical outcomes.  
8 (1) The Board of Medicine, the Board of Osteopathic  
9 Medicine, the Board of Podiatric Medicine, and the Board of  
10 Dentistry shall adopt, by rule, guidelines to discourage  
11 health care practitioners under their respective jurisdictions  
12 from accepting gifts, payments, subsidies, or other financial  
13 inducements from pharmaceutical manufacturers which may  
14 undermine the practitioners' independent professional  
15 judgment. Any gift, payment, or other financial inducement  
16 that a health care practitioner receives from a pharmaceutical  
17 manufacturer should primarily entail a benefit to his or her  
18 patients and should not be of substantial value. For purposes  
19 of this section, a gift, payment, subsidy, or other financial  
20 inducement does not include complimentary samples of medicinal  
21 drugs.  
22 (2) To ensure that patients are adequately informed  
23 about their care and to assist the health care practitioner in  
24 avoiding the receipt of gifts, payments, subsidies, or other  
25 financial inducements from pharmaceutical manufacturers which  
26 may not be justified, the Board of Medicine, the Board of  
27 Osteopathic Medicine, the Board of Podiatric Medicine, and the  
28 Board of Dentistry each shall require each health care  
29 practitioner under its regulatory jurisdiction to disclose to  
30 the Department of Health, as a condition of license renewal,  
31 the receipt of gifts, payments, subsidies, or other financial

1 inducements from pharmaceutical manufacturers which conflict  
2 with that health care practitioner's duty of loyalty to his or  
3 her patients.

4           Section 4. There is appropriated to the Agency for  
5 Health Care Administration the sum of \$15,244,200 from the  
6 Medical Care Trust Fund and the sum of \$11,755,800 from the  
7 General Revenue Fund to provide Medicaid for services for  
8 persons who are eligible under section 409.904(1), Florida  
9 Statutes, and whose incomes are greater than 90 percent of the  
10 federal poverty level but no greater than 100 percent of the  
11 federal poverty level.

12           Section 5. There is appropriated the sum of \$42  
13 million from the General Revenue Fund to the Agency for Health  
14 Care Administration for the purpose of implementing section 1  
15 relating to the catastrophic pharmaceutical expense assistance  
16 program.

17           Section 6. There is appropriated the sum of \$1 million  
18 from the General Revenue Fund to the Agency for Health Care  
19 Administration to develop a computerized system that allows  
20 participating pharmacies to determine allowable maximum  
21 payments for prescription drugs under section 2.

22           Section 7. This act shall take effect upon becoming a  
23 law.  
24  
25  
26  
27  
28  
29  
30  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

\*\*\*\*\*

LEGISLATIVE SUMMARY

Creates a catastrophic pharmaceutical expense assistance program to assist elderly persons meeting established criteria in paying for prescription drugs. Requires pharmacies participating in the program or in Medicaid to limit their compensation for drugs. Requires the Board of Medicine, the Board of Osteopathic Medicine, the Board of Podiatric Medicine, and the Board of Dentistry to adopt rules to discourage the professionals under their jurisdictions from accepting compensation from pharmaceutical manufacturers which would undermine independent professional judgment. Requires professionals receiving such compensation to report the compensation annually to the Department of Health.