

By the Committee on Health Care Services and
Representatives Pruitt, Goode, Sanderson and Fasano

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
11 legislative findings relating to health care
12 practitioners' fiduciary responsibility to
13 patients and the acceptance of certain types of
14 compensation from pharmaceutical manufacturers;
15 amending s. 455.624, F.S.; providing additional
16 grounds for disciplinary action against certain
17 health care practitioners; providing
18 appropriations; providing effective dates.

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

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

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

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

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31 (a) Are over the age of 65;

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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 s. 409.906(20),
9 Florida Statutes. Payments shall be for the total amount of
10 prescription drug expenses above 10 percent of an individual's
11 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
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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 health
26 care practitioners have a fiduciary responsibility to act in
27 the best interests of their patients, who place their trust
28 in, and are dependent on, the professional expertise of health
29 care practitioners when seeking their services. The
30 Legislature finds that the nature of the relationship between
31 the patient and the health care practitioner and the

1 underlying trust in that relationship prompt the need for
2 guidelines to avoid the receipt by health care practitioners
3 of gifts, payments, subsidies, or other financial inducements
4 from pharmaceutical manufacturers which adversely shape the
5 health care practitioners' independent professional judgment
6 and which undermine their patients' access to treatment,
7 course of care, and clinical outcomes.

8 Section 4. Effective October 1, 2000, paragraph (y) is
9 added to subsection (1) of section 455.624, Florida Statutes,
10 to read:

11 455.624 Grounds for discipline; penalties;
12 enforcement.--

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

16 (y) Accepting gifts, payments, subsidies, or other
17 financial inducements from pharmaceutical manufacturers which:

18 1. Do not primarily entail a benefit to patients;

19 2. Are of substantial value; and

20 3. Undermine the practitioner's independent

21 professional judgment or which conflict with the

22 practitioner's duty of loyalty to patients.

23 (2) When the board, or the department when there is no
24 board, finds any person guilty of the grounds set forth in
25 subsection (1) or of any grounds set forth in the applicable
26 practice act, including conduct constituting a substantial
27 violation of subsection (1) or a violation of the applicable
28 practice act which occurred prior to obtaining a license, it
29 may enter an order imposing one or more of the following
30 penalties:
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- 1 (a) Refusal to certify, or to certify with
2 restrictions, an application for a license.
- 3 (b) Suspension or permanent revocation of a license.
- 4 (c) Restriction of practice.
- 5 (d) Imposition of an administrative fine not to exceed
6 \$10,000 for each count or separate offense.
- 7 (e) Issuance of a reprimand.
- 8 (f) Placement of the licensee on probation for a
9 period of time and subject to such conditions as the board, or
10 the department when there is no board, may specify. Those
11 conditions may include, but are not limited to, requiring the
12 licensee to undergo treatment, attend continuing education
13 courses, submit to be reexamined, work under the supervision
14 of another licensee, or satisfy any terms which are reasonably
15 tailored to the violations found.
- 16 (g) Corrective action.
- 17 (h) Imposition of an administrative fine in accordance
18 with s. 381.0261 for violations regarding patient rights.

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20 In determining what action is appropriate, the board, or
21 department when there is no board, must first consider what
22 sanctions are necessary to protect the public or to compensate
23 the patient. Only after those sanctions have been imposed may
24 the disciplining authority consider and include in the order
25 requirements designed to rehabilitate the practitioner. All
26 costs associated with compliance with orders issued under this
27 subsection are the obligation of the practitioner.

28 Section 5. There is appropriated to the Agency for
29 Health Care Administration the sum of \$15,244,200 from the
30 Medical Care Trust Fund and the sum of \$11,755,800 from the
31 General Revenue Fund to provide Medicaid for services for

1 persons who are eligible under s. 409.904(1), Florida
2 Statutes, and whose incomes are greater than 90 percent of the
3 federal poverty level but no greater than 100 percent of the
4 federal poverty level.

5 Section 6. There is appropriated the sum of \$42
6 million from the General Revenue Fund to the Agency for Health
7 Care Administration for the purpose of implementing section 1
8 relating to the catastrophic pharmaceutical expense assistance
9 program.

10 Section 7. There is appropriated the sum of \$1 million
11 from the General Revenue Fund to the Agency for Health Care
12 Administration to develop a computerized system that allows
13 participating pharmacies to determine allowable maximum
14 payments for prescription drugs under section 2.

15 Section 8. Except as otherwise provided herein, this
16 act shall take effect upon becoming a law.

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