

By the Committees on Appropriations; Judiciary; Health, Aging
and Long-Term Care; and Senator Burt

309-2025-02

1 A bill to be entitled
2 An act relating to controlled substances;
3 providing for specified licensing boards to
4 adopt rules governing the prescribing of
5 controlled substances; requiring certain health
6 care providers to complete education courses
7 relating to the prescription of controlled
8 substances; providing penalties and requiring a
9 report; providing for the emergency suspension
10 of certain licenses for prescribing violations;
11 requiring the Department of Health, the
12 Department of Law Enforcement, the Statewide
13 Prosecutor, and State Attorneys to share
14 certain information regarding health care
15 practitioners; requiring a report; requiring
16 the Department of Legal Affairs to establish an
17 electronic system to monitor the prescribing of
18 certain controlled substances; establishing an
19 advisory council and providing for its
20 membership, duties, staff, and compensation;
21 amending s. 456.033, F.S.; eliminating certain
22 requirements for HIV and AIDS education
23 courses; amending s. 456.072, F.S., revising
24 penalties; amending s. 458.345, F.S.; requiring
25 certain resident physicians, interns, and
26 fellows to complete an educational course in
27 prescribing controlled substances; amending s.
28 461.013, F.S.; prohibiting the presigning of
29 blank prescription forms and providing
30 penalties; amending s. 893.04, F.S.; providing
31 additional requirements for pharmacists

1 regarding the identification of persons to whom
2 controlled substances are dispensed;
3 prohibiting certain prescribing practitioners
4 from possessing, administering, dispensing, or
5 prescribing controlled substances; providing an
6 effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

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10 Section 1. Physicians; rules establishing prescribing
11 guidelines.--To minimize the diversion and resultant abuse of
12 controlled substances, the Board of Medicine and the Board of
13 Osteopathic Medicine shall adopt rules to establish guidelines
14 for prescribing controlled substances to patients in
15 emergency-department settings. Such guidelines must allow
16 physicians to provide legitimate medical treatment of acute
17 and chronic pain and require them to recognize and prevent
18 abuse of pain medications prescribed in emergency-department
19 settings. The guidelines must also consider requirements of
20 state and federal law and of the Joint Commission on the
21 Accreditation of Healthcare Organizations. Each board shall
22 consult with the Florida College of Emergency Physicians in
23 developing these guidelines.

24 Section 2. Instruction required for certain licensees
25 in prescribing and pharmacology.--

26 (1) The appropriate professional licensing board shall
27 require each person licensed under chapter 458, chapter 459,
28 chapter 461, chapter 462, or chapter 466, Florida Statutes, to
29 complete a 1-hour educational course, approved by the board,
30 on appropriate prescribing and pharmacology of controlled
31 substances, as part of the licensee's initial license renewal

1 after January 1, 2003. The course shall provide education in
2 the state and federal laws and rules governing the prescribing
3 and dispensing of controlled substances; in appropriate
4 evaluation of patients for any risk of drug diversion and the
5 resulting abuse of controlled substances; in the use of
6 informed consent and other protocols, such as discussing the
7 risks and benefits of using controlled substances, with
8 patients to prevent drug diversion; in the need to keep
9 accurate and complete medical records to justify treatment
10 with controlled substances; in addiction and substance-abuse
11 issues with respect to patients; in the appropriate use of
12 recognized pain-management guidelines; and in the need for
13 consultation and referral of patients who are at risk for
14 misuse of medication or diversion of controlled substances,
15 when appropriate.

16 (2) The board may approve additional equivalent
17 courses that satisfy the requirements of subsection (1). Each
18 licensing board that requires a licensee to complete an
19 educational course pursuant to this section shall include the
20 hours required to complete the course in the total required
21 continuing educational requirements.

22 (3) Any person who holds two or more licenses subject
23 to this section may satisfy the requirements of this section
24 by taking only one such board-approved course for relicensure
25 of all such licenses.

26 (4) A licensee who fails to comply with this section
27 is subject to disciplinary action under each respective
28 practice act and section 456.072(1)(k), Florida Statutes. In
29 addition to discipline by the board, the licensee must
30 complete the course.

31

1 (5) The board shall require, as a condition of
2 granting a license under the chapter specified in subsection
3 (1), that an applicant for initial licensure complete an
4 educational course set forth in subsection (1). An applicant
5 who has not taken a course at the time of licensure shall be
6 allowed 6 months within which to complete this requirement.

7 (6) The board may adopt rules necessary to administer
8 this section.

9 Section 3. Emergency suspension orders; controlled
10 substances.--Upon receipt of sufficient evidence from any
11 agency authorized to enforce chapter 893, Florida Statutes,
12 regarding a violation of section 458.331(1)(q), section
13 458.331(1)(r), section 458.331(1)(aa), section 459.015(1)(t),
14 section 459.015(1)(u), section 459.015(1)(ee), section
15 461.013(1)(o), section 461.013(1)(p), section 461.013(1)(dd),
16 section 462.14(1)(q), section 462.14(1)(r), section
17 462.14(1)(aa), section 464.018(1)(i), section 465.016(1)(e),
18 section 465.016(1)(i), section 466.028(1)(p), section
19 466.028(1)(q), section 466.028(1)(r), or section
20 466.028(1)(dd) or of chapter 893, Florida Statutes, by a
21 licensed health care practitioner who is authorized to
22 prescribe, dispense, or administer controlled substances, the
23 Department of Health shall review the case and if the
24 practitioner is a danger to the public health, safety, or
25 welfare of the public as set forth in section 120.60(6),
26 Florida Statutes, recommend the suspension or restriction of
27 the practitioner's license to the Secretary of Health within
28 10 working days after receiving such evidence. The Secretary
29 of Health may suspend or restrict the license of the
30 practitioner in accordance with section 120.60(6), Florida
31 Statutes.

1 Section 4. Sharing of arrest, formal-charging, and
2 other information regarding health care practitioners.--

3 (1) In order to facilitate the efficiency of the
4 Department of Health's investigation of applicable violations
5 involving the diversion of controlled substances by such
6 practitioners, or other violations of criminal law that may
7 adversely affect a practitioner's licensed practice, any law
8 enforcement agency that arrests a person known or suspected to
9 be a health care practitioner licensed by the state shall
10 promptly notify the Department of Health and provide it with:

11 (a) Notice of the arrest, including the name of the
12 arresting agency and lead investigator, detective, or officer
13 in the case;

14 (b) The name of the person charged;

15 (c) All known personal identifying information related
16 to the person arrested;

17 (d) The date of the arrest;

18 (e) The charges for which the person is arrested;

19 (f) The agency case number assigned to the arrest; and

20 (g) The arrest report, investigative report, or
21 statement of the allegations supporting the arrest.

22 (2) A state attorney or the Statewide Prosecutor, upon
23 the filing of an indictment or information against a person
24 known or suspected to be a health care practitioner licensed
25 by the state, shall forward a copy of the indictment or
26 information to the Department of Health.

27 (3) The Medical Examiners Commission within the
28 Department of Law Enforcement shall report to the Department
29 of Health quarterly any information in its possession
30 regarding the deaths of persons who had lethal levels of
31 controlled substances in their bodies as such information has

1 been reported to the commission by the medical examiners
2 within the state.

3 (4) Upon receipt of arrest information from a law
4 enforcement agency or notice of formal charging by a
5 prosecuting entity, the Department of Health or the board
6 having regulatory authority over the practitioner shall
7 investigate any information received and determine whether it
8 has reasonable grounds to believe that the practitioner has
9 violated any law relating to the practitioner's practice and
10 shall take appropriate licensure action as provided by law or
11 rule. If the Department of Health receives information
12 pursuant to this section which suggests that the person
13 arrested or charged is also licensed by the state in another
14 field or profession, the Department of Health shall forward
15 such information to the appropriate licensing entity for
16 review and appropriate licensure action as provided by law or
17 rule.

18 (5) To help the Department of Health and regulatory
19 boards control the diversion and resultant abuse of controlled
20 substances, the Department of Health and the Department of Law
21 Enforcement shall study the feasibility of expanding the
22 electronic exchange of information to facilitate the transfer
23 to the Department of Health of criminal-history information
24 involving licensed health care practitioners who are
25 authorized to prescribe, administer, or dispense controlled
26 substances. The study must address whether the collection and
27 retention of fingerprint information concerning licensed
28 health care practitioners subject to the profiling provisions
29 of sections 456.039 and 456.0391, Florida Statutes, is
30 advisable as a means of better regulating such practitioners
31 and guarding against abuse of the privileges of such licensure

1 with respect to controlling the diversion and resultant abuse
2 of controlled substances. The Department of Law Enforcement
3 shall investigate the feasibility of the electronic
4 transmission of information from medical examiners within this
5 state to the Department of Health regarding autopsies and
6 other public reports that attribute death to
7 controlled-substance abuse. The Department of Law Enforcement,
8 in consultation with the Department of Health, must submit a
9 report of its findings to the Legislature by November 1, 2002.

10 Section 5. Electronic monitoring system for
11 prescriptions.--

12 (1) By July 1, 2003, the Department of Legal Affairs
13 shall design and establish an electronic system consistent
14 with the National Council of Prescription Drug Programs
15 (NCPDP) standards or the American Society for Automation in
16 Pharmacy (ASAP) standards to monitor the prescribing of
17 Schedule II controlled substances, other drugs designated by
18 rule by the Attorney General under this section, and codeine,
19 hydrocodone, dihydrocodeine, ethylmorphine, and morphine, as
20 scheduled in Schedule II and Schedule III, by health care
21 practitioners within the state or the dispensing of such
22 controlled substances to an address within the state by a
23 pharmacy permitted or registered by the Board of Pharmacy.

24 (2) All Schedule II controlled substances, and codeine
25 hydrocodone, dihydrocodeine, ethylmorphine, and morphine as
26 scheduled in Schedule II and Schedule III, and any other drug
27 designated by the Attorney General under this section shall be
28 included in the electronic monitoring system. The Attorney
29 General may, by rule, designate any other drug for inclusion
30 in such system after making a determination that the drug is a
31 drug of abuse. The Attorney General must consider the

1 recommendations of the prescription-monitoring advisory
2 council created by this section before designating a drug of
3 abuse for inclusion in the electronic monitoring system and
4 only after he or she determines that the current level of
5 regulation over the prescribing and dispensing of such drug is
6 inadequate and that the drug has a high potential for abuse or
7 is being excessively misused, abused, or diverted into illicit
8 drug trafficking.

9 (3) Each controlled substance or drug subject to this
10 section which is dispensed in this state must be timely
11 reported to the Department of Legal Affairs. Such data must be
12 reported each time that:

13 (a) A Schedule II controlled substance is dispensed;

14 (b) A drug that is designated by the Attorney General
15 under subsection (2) is dispensed; or

16 (c) Codeine, hydrocodone, dihydrocodeine,
17 ethylmorphine, or morphine as scheduled in Schedule II and
18 Schedule III is dispensed.

19 (4) This section does not apply to controlled
20 substances or drugs:

21 (a) Ordered from an institutional pharmacy licensed
22 under section 465.019(2), Florida Statutes, in accordance with
23 the institutional policy for such controlled substances or
24 drugs; or

25 (b) Administered by a health care practitioner to a
26 patient or resident receiving care from a hospital, nursing
27 home, assisted living facility, home health agency, hospice,
28 or intermediate care facility for the developmentally disabled
29 which is licensed in this state.

30 (5) The data required under this section includes:

31 (a) The patient's name.

- 1 (b) The patient's address.
- 2 (c) The national drug code number of the substance
3 dispensed.
- 4 (d) The date that the substance is dispensed.
- 5 (e) The quantity of substance dispensed.
- 6 (f) The dispenser's National Association of Board's of
7 Pharmacy (NABP) number.
- 8 (g) The prescribing practitioner's United States Drug
9 Enforcement Administration Number.
- 10 (6) The information must be reported within 30 days
11 after the date the controlled substance or drug is dispensed.
- 12 (7) A dispenser must transmit the information required
13 by this section in an electronic format approved by rule of
14 the Board of Pharmacy after consultation with the advisory
15 council and the Department of Legal Affairs unless a specific
16 waiver is granted to that dispenser by the Department of Legal
17 Affairs.
- 18 (8) The Department of Legal Affairs shall establish a
19 13-member prescription-monitoring program advisory council to
20 assist it in identifying drugs of abuse for inclusion in the
21 monitoring system and in implementing the system.
- 22 (a) The Governor shall appoint members to serve on the
23 advisory council. The members of the council shall include the
24 Attorney General or his or her designee who shall serve as the
25 chairperson; the Secretary of Health or his or her designee;
26 the executive director of the Department of Law Enforcement or
27 his or her designee; the director of the Office of Drug
28 Control within the Executive Office of Governor or his or her
29 designee; a physician who is licensed in this state under
30 chapter 458, Florida Statutes, who is recommended by the
31 Florida Medical Association; a physician who is licensed in

1 this state under chapter 459, Florida Statutes, who is
2 recommended by the Florida Osteopathic Medical Association; a
3 podiatric physician who is licensed in this state under
4 chapter 461, Florida Statutes, who is recommended by the
5 Florida Podiatric Medical Association; a pharmacist who is
6 licensed in this state under chapter 465, Florida Statutes,
7 who is recommended by the Florida Pharmacy Association; a
8 pharmacist who is licensed in this state under chapter 465,
9 Florida Statutes, who is recommended by the Florida Retail
10 Federation; a pharmacist who is licensed in this state under
11 chapter 465, Florida Statutes, who is recommended by the
12 National Community Pharmacy Association; a dentist who is
13 licensed in this state under chapter 466, Florida Statutes,
14 who is recommended by the Florida Dental Association; a
15 veterinarian who is licensed in this state under chapter 474,
16 Florida Statutes, who is recommended by the Florida Veterinary
17 Medical Association; and a prosecutor who has expertise in the
18 criminal prosecution of drug-diversion cases.

19 (b) The advisory council members shall meet no more
20 often than quarterly at the call of the chairperson, and serve
21 without compensation. However, such members may receive
22 reimbursement, as provided in section 112.061, Florida
23 Statutes, for per diem and travel expenses incurred in the
24 performance of their official duties.

25 (c) The Department of Legal Affairs shall provide
26 staff and other administrative assistance that is reasonably
27 necessary to assist the advisory council in carrying out its
28 responsibilities.

29 (9) The Department of Legal Affairs shall adopt rules
30 pursuant to section 120.536(1) and section 120.574, Florida
31 Statutes, necessary to administer this section.

1 Section 6. Subsections (1) and (9) of section 456.033,
2 Florida Statutes, are amended to read:

3 456.033 Requirement for instruction for certain
4 licensees on HIV and AIDS.--

5 (1) The appropriate board shall require each person
6 licensed or certified under chapter 457; ~~chapter 458; chapter~~
7 ~~459; chapter 460; chapter 461; chapter 463; part I of chapter~~
8 ~~464; chapter 465; chapter 466;~~part II, part III, part V, or
9 part X of chapter 468; or chapter 486 to complete a continuing
10 educational course, approved by the board, on human
11 immunodeficiency virus and acquired immune deficiency syndrome
12 as part of biennial relicensure or recertification. The course
13 shall consist of education on the modes of transmission,
14 infection control procedures, clinical management, and
15 prevention of human immunodeficiency virus and acquired immune
16 deficiency syndrome. Such course shall include information on
17 current Florida law on acquired immune deficiency syndrome and
18 its impact on testing, confidentiality of test results,
19 treatment of patients, and any protocols and procedures
20 applicable to human immunodeficiency virus counseling and
21 testing, reporting, the offering of HIV testing to pregnant
22 women, and partner notification issues pursuant to ss. 381.004
23 and 384.25.

24 (9)~~(a)~~ In lieu of completing a course as required in
25 subsection (1), the licensee may complete a course in
26 end-of-life care and palliative health care, so long as the
27 licensee completed an approved AIDS/HIV course in the
28 immediately preceding biennium.

29 ~~(b) In lieu of completing a course as required by~~
30 ~~subsection (1), a person licensed under chapter 466 who has~~
31 ~~completed an approved AIDS/HIV course in the immediately~~

1 ~~preceding 2 years may complete a course approved by the Board~~
2 ~~of Dentistry.~~

3 Section 7. Paragraph (d) of subsection (2) of section
4 456.072, Florida Statutes, is amended to read:

5 456.072 Grounds for discipline; penalties;
6 enforcement.--

7 (2) When the board, or the department when there is no
8 board, finds any person guilty of the grounds set forth in
9 subsection (1) or of any grounds set forth in the applicable
10 practice act, including conduct constituting a substantial
11 violation of subsection (1) or a violation of the applicable
12 practice act which occurred prior to obtaining a license, it
13 may enter an order imposing one or more of the following
14 penalties:

15 (d) Imposition of an administrative fine not to exceed
16 \$25,000~~\$10,000~~ for each count or separate offense. If the
17 violation is for fraud or making a false or fraudulent
18 representation, the board, or the department if there is no
19 board, must impose a fine of \$10,000 per count or offense.

20 Section 8. Paragraph (d) is added to subsection (1) of
21 section 458.345, Florida Statutes, to read:

22 458.345 Registration of resident physicians, interns,
23 and fellows; list of hospital employees; prescribing of
24 medicinal drugs; penalty.--

25 (1) Any person desiring to practice as a resident
26 physician, assistant resident physician, house physician,
27 intern, or fellow in fellowship training which leads to
28 subspecialty board certification in this state, or any person
29 desiring to practice as a resident physician, assistant
30 resident physician, house physician, intern, or fellow in
31 fellowship training in a teaching hospital in this state as

1 defined in s. 408.07(44) or s. 395.805(2), who does not hold a
2 valid, active license issued under this chapter shall apply to
3 the department to be registered and shall remit a fee not to
4 exceed \$300 as set by the board. The department shall
5 register any applicant the board certifies has met the
6 following requirements:

7 (d) Has completed, upon initial registration, the
8 1-hour educational course in the prescribing of controlled
9 substances as set forth in section 2 of this act. An applicant
10 who has not taken a course at the time of registration shall
11 be allowed up to 6 months within which to complete this
12 requirement.

13 Section 9. Paragraph (dd) is added to subsection (1)
14 of section 461.013, Florida Statutes, to read:

15 461.013 Grounds for disciplinary action; action by the
16 board; investigations by department.--

17 (1) The following acts constitute grounds for denial
18 of a license or disciplinary action, as specified in s.
19 456.072(2):

20 (dd) Presigning blank prescription forms.

21 Section 10. Paragraphs (h), (i), (j), (k), and (l) are
22 added to subsection (1) of section 893.04, Florida Statutes,
23 to read:

24 893.04 Pharmacist and practitioner.--

25 (1) A pharmacist, in good faith and in the course of
26 professional practice only, may dispense controlled substances
27 upon a written or oral prescription of a practitioner, under
28 the following conditions:

29 (h) A pharmacist may not dispense a Schedule II
30 controlled substance; codeine, hydrocodone, dihydrocodeine,
31 ethylmorphine, or morphine, as scheduled in Schedule II and

1 Schedule III; or a drug of abuse designated by the Attorney
2 General by rule under the prescription-monitoring system to
3 any individual not personally known to the pharmacist without
4 first obtaining suitable identification and documenting, in a
5 log book kept by the pharmacist, the identity of the
6 individual obtaining the controlled substance. The log book
7 entry must contain the printed name, address, telephone number
8 if available, and driver's license number or other suitable
9 identification number, and signature of the person obtaining
10 the controlled substance or drug. If the individual does not
11 have suitable identification or it is impracticable to obtain
12 such identification, the pharmacist may dispense the
13 controlled substance or drug only when the pharmacist
14 determines, in the exercise of her or his professional
15 judgment, that the order is valid and necessary for treatment.
16 In such a case, the pharmacist or his or her designee must
17 obtain the other information required under this paragraph,
18 and the pharmacist or pharmacist's designee must sign the log
19 to indicate that suitable identification was not available and
20 that the pharmacist's professional judgment was exercised
21 prior to dispensing the controlled substance or drug. The
22 Board of Pharmacy may adopt, by rule, procedures for a
23 pharmacist to verify the validity of a prescription for a
24 Schedule II controlled substance; other drug designated by the
25 Attorney General under this section; or codeine, hydrocodone,
26 dihydrocodeine, ethylmorphine, or morphine, as scheduled in
27 Schedule II and Schedule III, for circumstances when it is
28 otherwise impracticable for the pharmacist or dispensing
29 practitioner to obtain suitable identification from the
30 patient or the patient's agent. For purposes of this section,
31 identification is suitable only if it contains the photograph,

1 the printed name, and the signature of the individual
2 obtaining the Schedule II controlled substance or drug of
3 abuse under the prescription-monitoring system.

4 (i) Any pharmacist that dispenses a Schedule II
5 controlled substance or drug subject to the requirements of
6 this section when dispensed by mail shall be exempt from the
7 requirements to obtain suitable identification.

8 (j) All prescriptions issued for a Schedule II
9 controlled substance; codeine, hydrocodone, dihydrocodeine,
10 ethylmorphine, or morphine, as scheduled in Schedule II and
11 Schedule III; or a drug of abuse under the
12 prescription-monitoring system which has been designated by
13 the Attorney General by rule, must include both a written and
14 numerical notation of quantity on the face of the
15 prescription.

16 (k) A pharmacist may not dispense more than a 30-day
17 supply of a controlled substance listed in Schedule III upon
18 an oral prescription.

19 (l) A pharmacist may not knowingly fill a prescription
20 that has been mutilated or forged for a Schedule II controlled
21 substance; codeine, hydrocodone, dihydrocodeine,
22 ethylmorphine, and morphine, as scheduled in Schedule II and
23 Schedule III; or a drug of abuse under the
24 prescription-monitoring system which has been designated by
25 the Attorney General by rule.

26 Section 11. This act shall take effect July 1, 2002.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/CS/SB 636

Eliminates requirement to investigate all reports of overdose deaths.

Inserts clarification that the study addresses only health care practitioners subject to the profiling provisions of ss. 456.039 & 456.0391, F.S.

Allows a pharmacist to dispense the controlled substance in the absence of "suitable identification" if, in the professional judgment of the pharmacist the order is valid and necessary for treatment.

Deletes requirement that the Department of Legal Affairs develop a counterfeit-proof prescription form to be used by practitioners who prescribe controlled substances. Also deletes proposed processes that must be followed prior to dispensing controlled substances.

Directs law enforcement agencies to provide to the Department of Health reports and statements of the allegations supporting the arrest of health care practitioners.