

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; creating s.
6 893.065, F.S., establishing requirements for
7 the design, issuance, and prescription forms
8 developed by the Department of Legal Affairs
9 for certain controlled substances and drugs;
10 granting rulemaking authority to the Department
11 of Legal Affairs; providing inspection of such
12 forms by the Department of Legal Affairs;
13 providing an effective date.

14

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

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

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

3 (1) The appropriate professional licensing board shall
4 require each person licensed under chapter 458, chapter 459,
5 chapter 461, chapter 462, or chapter 466, Florida Statutes, to
6 complete a 1-hour educational course, approved by the board,
7 on appropriate prescribing and pharmacology of controlled
8 substances, as part of the licensee's initial license renewal
9 after January 1, 2003. The course shall provide education in
10 the state and federal laws and rules governing the prescribing
11 and dispensing of controlled substances; in appropriate
12 evaluation of patients for any risk of drug diversion and the
13 resulting abuse of controlled substances; in the use of
14 informed consent and other protocols, such as discussing the
15 risks and benefits of using controlled substances, with
16 patients to prevent drug diversion; in the need to keep
17 accurate and complete medical records to justify treatment
18 with controlled substances; in addiction and substance-abuse
19 issues with respect to patients; in the appropriate use of
20 recognized pain-management guidelines; and in the need for
21 consultation and referral of patients who are at risk for
22 misuse of medication or diversion of controlled substances,
23 when appropriate.

24 (2) The board may approve additional equivalent
25 courses that satisfy the requirements of subsection (1). Each
26 licensing board that requires a licensee to complete an
27 educational course pursuant to this section shall include the
28 hours required to complete the course in the total required
29 continuing educational requirements.

30 (3) Any person who holds two or more licenses subject
31 to this section may satisfy the requirements of this section

1 by taking only one such board-approved course for relicensure
2 of all such licenses.

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

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

14 (6) The board may adopt rules necessary to administer
15 this section.

16 Section 3. Emergency suspension orders; controlled
17 substances.--Upon receipt of sufficient evidence from any
18 agency authorized to enforce chapter 893, Florida Statutes,
19 regarding a violation of section 458.331(1)(q), section
20 458.331(1)(r), section 458.331(1)(aa), section 459.015(1)(t),
21 section 459.015(1)(u), section 459.015(1)(ee), section
22 461.013(1)(o), section 461.013(1)(p), section 461.013(1)(dd),
23 section 462.14(1)(q), section 462.14(1)(r), section
24 462.14(1)(aa), section 464.018(1)(i), section 465.016(1)(e),
25 section 465.016(1)(i), section 466.028(1)(p), section
26 466.028(1)(q), section 466.028(1)(r), or section
27 466.028(1)(dd) or of chapter 893, Florida Statutes, by a
28 licensed health care practitioner who is authorized to
29 prescribe, dispense, or administer controlled substances, the
30 Department of Health shall review the case and if the
31 practitioner is a danger to the public health, safety, or

1 welfare of the public as set forth in section 120.60(6),
2 Florida Statutes, recommend the suspension or restriction of
3 the practitioner's license to the Secretary of Health within
4 10 working days after receiving such evidence. The Secretary
5 of Health may suspend or restrict the license of the
6 practitioner in accordance with section 120.60(6), Florida
7 Statutes.

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

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

18 (a) Notice of the arrest, including the name of the
19 arresting agency and lead investigator, detective, or officer
20 in the case;

21 (b) The name of the person charged;

22 (c) All known personal identifying information related
23 to the person arrested;

24 (d) The date of the arrest;

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

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

27 (g) The arrest report, investigative report, or
28 statement of the allegations supporting the arrest.

29 (2) A state attorney or the Statewide Prosecutor, upon
30 the filing of an indictment or information against a person
31 known or suspected to be a health care practitioner licensed

1 by the state, shall forward a copy of the indictment or
2 information to the Department of Health.

3 (3) The Medical Examiners Commission within the
4 Department of Law Enforcement shall report to the Department
5 of Health quarterly any information in its possession
6 regarding the deaths of persons who had lethal levels of
7 controlled substances in their bodies as such information has
8 been reported to the commission by the medical examiners
9 within the state.

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

25 (5) To help the Department of Health and regulatory
26 boards control the diversion and resultant abuse of controlled
27 substances, the Department of Health and the Department of Law
28 Enforcement shall study the feasibility of expanding the
29 electronic exchange of information to facilitate the transfer
30 to the Department of Health of criminal-history information
31 involving licensed health care practitioners who are

1 authorized to prescribe, administer, or dispense controlled
2 substances. The study must address whether the collection and
3 retention of fingerprint information concerning licensed
4 health care practitioners subject to the profiling provisions
5 of sections 456.039 and 456.0391, Florida Statutes, is
6 advisable as a means of better regulating such practitioners
7 and guarding against abuse of the privileges of such licensure
8 with respect to controlling the diversion and resultant abuse
9 of controlled substances. The Department of Law Enforcement
10 shall investigate the feasibility of the electronic
11 transmission of information from medical examiners within this
12 state to the Department of Health regarding autopsies and
13 other public reports that attribute death to
14 controlled-substance abuse. The Department of Law Enforcement,
15 in consultation with the Department of Health, must submit a
16 report of its findings to the Legislature by November 1, 2002.

17 Section 5. Electronic monitoring system for
18 prescriptions.--

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

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1 (2) All Schedule II controlled substances, and codeine
2 hydrocodone, dihydrocodeine, ethylmorphine, and morphine as
3 scheduled in Schedule II and Schedule III, and any other drug
4 designated by the Attorney General under this section shall be
5 included in the electronic monitoring system. The Attorney
6 General may, by rule, designate any other drug for inclusion
7 in such system after making a determination that the drug is a
8 drug of abuse. The Attorney General must consider the
9 recommendations of the prescription-monitoring advisory
10 council created by this section before designating a drug of
11 abuse for inclusion in the electronic monitoring system and
12 only after he or she determines that the current level of
13 regulation over the prescribing and dispensing of such drug is
14 inadequate and that the drug has a high potential for abuse or
15 is being excessively misused, abused, or diverted into illicit
16 drug trafficking.

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

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

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

24 (c) Codeine, hydrocodone, dihydrocodeine,
25 ethylmorphine, or morphine as scheduled in Schedule II and
26 Schedule III is dispensed.

27 (4) This section does not apply to controlled
28 substances or drugs:

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

3 (b) Administered by a health care practitioner to a
4 patient or resident receiving care from a hospital, nursing
5 home, assisted living facility, home health agency, hospice,
6 or intermediate care facility for the developmentally disabled
7 which is licensed in this state.

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

9 (a) The patient's name.

10 (b) The patient's address.

11 (c) The national drug code number of the substance
12 dispensed.

13 (d) The date that the substance is dispensed.

14 (e) The quantity of substance dispensed.

15 (f) The dispenser's National Association of Board's of
16 Pharmacy (NABP) number.

17 (g) The prescribing practitioner's United States Drug
18 Enforcement Administration Number.

19 (6) The information must be reported within 30 days
20 after the date the controlled substance or drug is dispensed.

21 (7) A dispenser must transmit the information required
22 by this section in an electronic format approved by rule of
23 the Board of Pharmacy after consultation with the advisory
24 council and the Department of Legal Affairs unless a specific
25 waiver is granted to that dispenser by the Department of Legal
26 Affairs. The information transmitted may be maintained by any
27 department receiving it for up to 12 months before purging it
28 from its records. Notwithstanding the foregoing, any
29 department receiving such information may maintain it longer
30 than 12 months if the information is pertinent to an ongoing
31 investigation arising under this act.

1 (8) The Department of Legal Affairs shall establish a
2 14-member prescription-monitoring program advisory council to
3 assist it in identifying drugs of abuse for inclusion in the
4 monitoring system and in implementing the system.

5 (a) The Governor shall appoint members to serve on the
6 advisory council. The members of the council shall include the
7 Attorney General or his or her designee who shall serve as the
8 chairperson; the Secretary of Health or his or her designee;
9 the executive director of the Department of Law Enforcement or
10 his or her designee; the director of the Office of Drug
11 Control within the Executive Office of Governor or his or her
12 designee; a physician who is licensed in this state under
13 chapter 458, Florida Statutes, who is recommended by the
14 Florida Medical Association; a physician who is licensed in
15 this state under chapter 458 or chapter 459, Florida Statutes,
16 who is recommended by the Florida Academy of Pain Medicine; a
17 physician who is licensed in this state under chapter 459,
18 Florida Statutes, who is recommended by the Florida
19 Osteopathic Medical Association; a podiatric physician who is
20 licensed in this state under chapter 461, Florida Statutes,
21 who is recommended by the Florida Podiatric Medical
22 Association; a pharmacist who is licensed in this state under
23 chapter 465, Florida Statutes, who is recommended by the
24 Florida Pharmacy Association; a pharmacist who is licensed in
25 this state under chapter 465, Florida Statutes, who is
26 recommended by the Florida Retail Federation; a pharmacist who
27 is licensed in this state under chapter 465, Florida Statutes,
28 who is recommended by the National Community Pharmacy
29 Association; a dentist who is licensed in this state under
30 chapter 466, Florida Statutes, who is recommended by the
31 Florida Dental Association; a veterinarian who is licensed in

1 this state under chapter 474, Florida Statutes, who is
2 recommended by the Florida Veterinary Medical Association; and
3 a prosecutor who has expertise in the criminal prosecution of
4 drug-diversion cases.

5 (b) The advisory council members shall meet no more
6 often than quarterly at the call of the chairperson, and serve
7 without compensation. However, such members may receive
8 reimbursement, as provided in section 112.061, Florida
9 Statutes, for per diem and travel expenses incurred in the
10 performance of their official duties.

11 (c) The Department of Legal Affairs shall provide
12 staff and other administrative assistance that is reasonably
13 necessary to assist the advisory council in carrying out its
14 responsibilities.

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

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

20 456.033 Requirement for instruction for certain
21 licensees on HIV and AIDS.--

22 (1) The appropriate board shall require each person
23 licensed or certified under chapter 457; ~~chapter 458; chapter~~
24 ~~459;~~chapter 460; ~~chapter 461;~~chapter 463; part I of chapter
25 464; chapter 465; ~~chapter 466;~~part II, part III, part V, or
26 part X of chapter 468; or chapter 486 to complete a continuing
27 educational course, approved by the board, on human
28 immunodeficiency virus and acquired immune deficiency syndrome
29 as part of biennial relicensure or recertification. The course
30 shall consist of education on the modes of transmission,
31 infection control procedures, clinical management, and

1 prevention of human immunodeficiency virus and acquired immune
2 deficiency syndrome. Such course shall include information on
3 current Florida law on acquired immune deficiency syndrome and
4 its impact on testing, confidentiality of test results,
5 treatment of patients, and any protocols and procedures
6 applicable to human immunodeficiency virus counseling and
7 testing, reporting, the offering of HIV testing to pregnant
8 women, and partner notification issues pursuant to ss. 381.004
9 and 384.25.

10 (9)~~(a)~~ In lieu of completing a course as required in
11 subsection (1), the licensee may complete a course in
12 end-of-life care and palliative health care, so long as the
13 licensee completed an approved AIDS/HIV course in the
14 immediately preceding biennium.

15 ~~(b) In lieu of completing a course as required by~~
16 ~~subsection (1), a person licensed under chapter 466 who has~~
17 ~~completed an approved AIDS/HIV course in the immediately~~
18 ~~preceding 2 years may complete a course approved by the Board~~
19 ~~of Dentistry.~~

20 Section 7. Paragraph (d) of subsection (2) of section
21 456.072, Florida Statutes, is amended to read:

22 456.072 Grounds for discipline; penalties;
23 enforcement.--

24 (2) When the board, or the department when there is no
25 board, finds any person guilty of the grounds set forth in
26 subsection (1) or of any grounds set forth in the applicable
27 practice act, including conduct constituting a substantial
28 violation of subsection (1) or a violation of the applicable
29 practice act which occurred prior to obtaining a license, it
30 may enter an order imposing one or more of the following
31 penalties:

1 (d) Imposition of an administrative fine not to exceed
2 ~~\$25,000~~~~\$10,000~~ for each count or separate offense. If the
3 violation is for fraud or making a false or fraudulent
4 representation, the board, or the department if there is no
5 board, must impose a fine of \$10,000 per count or offense.

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

8 458.345 Registration of resident physicians, interns,
9 and fellows; list of hospital employees; prescribing of
10 medicinal drugs; penalty.--

11 (1) Any person desiring to practice as a resident
12 physician, assistant resident physician, house physician,
13 intern, or fellow in fellowship training which leads to
14 subspecialty board certification in this state, or any person
15 desiring to practice as a resident physician, assistant
16 resident physician, house physician, intern, or fellow in
17 fellowship training in a teaching hospital in this state as
18 defined in s. 408.07(44) or s. 395.805(2), who does not hold a
19 valid, active license issued under this chapter shall apply to
20 the department to be registered and shall remit a fee not to
21 exceed \$300 as set by the board. The department shall
22 register any applicant the board certifies has met the
23 following requirements:

24 (d) Has completed, upon initial registration, the
25 1-hour educational course in the prescribing of controlled
26 substances as set forth in section 2 of this act. An applicant
27 who has not taken a course at the time of registration shall
28 be allowed up to 6 months within which to complete this
29 requirement.

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

1 461.013 Grounds for disciplinary action; action by the
2 board; investigations by department.--

3 (1) The following acts constitute grounds for denial
4 of a license or disciplinary action, as specified in s.
5 456.072(2):

6 (dd) Presigning blank prescription forms.

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

10 893.04 Pharmacist and practitioner.--

11 (1) A pharmacist, in good faith and in the course of
12 professional practice only, may dispense controlled substances
13 upon a written or oral prescription of a practitioner, under
14 the following conditions:

15 (h) A pharmacist may not dispense a Schedule II
16 controlled substance; codeine, hydrocodone, dihydrocodeine,
17 ethylmorphine, or morphine, as scheduled in Schedule II and
18 Schedule III; or a drug of abuse designated by the Attorney
19 General by rule under the prescription-monitoring system to
20 any individual not personally known to the pharmacist without
21 first obtaining suitable identification and documenting, in a
22 log book kept by the pharmacist, the identity of the
23 individual obtaining the controlled substance. The log book
24 entry must contain the printed name, address, telephone number
25 if available, and driver's license number or other suitable
26 identification number, and signature of the person obtaining
27 the controlled substance or drug. If the individual does not
28 have suitable identification or it is impracticable to obtain
29 such identification, the pharmacist may dispense the
30 controlled substance or drug only when the pharmacist
31 determines, in the exercise of her or his professional

1 judgment, that the order is valid and necessary for treatment.
2 In such a case, the pharmacist or his or her designee must
3 obtain the other information required under this paragraph,
4 and the pharmacist or pharmacist's designee must sign the log
5 to indicate that suitable identification was not available and
6 that the pharmacist's professional judgment was exercised
7 prior to dispensing the controlled substance or drug. The
8 Board of Pharmacy may adopt, by rule, procedures for a
9 pharmacist to verify the validity of a prescription for a
10 Schedule II controlled substance; other drug designated by the
11 Attorney General under this section; or codeine, hydrocodone,
12 dihydrocodeine, ethylmorphine, or morphine, as scheduled in
13 Schedule II and Schedule III, for circumstances when it is
14 otherwise impracticable for the pharmacist or dispensing
15 practitioner to obtain suitable identification from the
16 patient or the patient's agent. For purposes of this section,
17 identification is suitable only if it contains the photograph,
18 the printed name, and the signature of the individual
19 obtaining the Schedule II controlled substance or drug of
20 abuse under the prescription-monitoring system.

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

25 (j) All prescriptions issued for a Schedule II
26 controlled substance; codeine, hydrocodone, dihydrocodeine,
27 ethylmorphine, or morphine, as scheduled in Schedule II and
28 Schedule III; or a drug of abuse under the
29 prescription-monitoring system which has been designated by
30 the Attorney General by rule, must include both a written and
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1 numerical notation of quantity on the face of the
2 prescription.

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

6 (l) A pharmacist may not knowingly fill a prescription
7 that has been mutilated or forged for a Schedule II controlled
8 substance; codeine, hydrocodone, dihydrocodeine,
9 ethylmorphine, and morphine, as scheduled in Schedule II and
10 Schedule III; or a drug of abuse under the
11 prescription-monitoring system which has been designated by
12 the Attorney General by rule.

13 Section 11. Section 893.065, Florida Statutes, is
14 created to read:

15 893.065 Voluntary program for counterfeit-resistant
16 prescription blanks.--The Department of Legal Affairs, may, by
17 rule, after consultation with the prescription monitoring
18 program advisory council established under this act, develop a
19 voluntary program for counterfeit-resistant prescription
20 blanks to be used by practitioners who prescribe controlled
21 substances or any drug of abuse under the electronic
22 prescription-monitoring system which has been designated by
23 the Attorney General. The Department of Legal Affairs may
24 develop, by rule, a counterfeit-resistant prescription blank
25 for voluntary use by practitioners who prescribe controlled
26 substances or any drug of abuse under the electronic
27 prescription monitoring system. The Department of Legal
28 Affairs may, by rule, require the blanks to be printed on
29 distinctive paper, serially numbered, and to bear the
30 preprinted name, address, and category of professional
31 licensure of the practitioner to whom they are issued and that

1 practitioner's federal registry number for controlled
2 substances. The prescription blanks may be issued by the
3 Department of Legal Affairs in serially numbered groups to
4 prescribing practitioners. If such blanks are issued by the
5 Department of Legal Affairs to implement a voluntary program
6 for counterfeit-resistant prescription blanks, a copy must be
7 available for inspection by the Department of Legal Affairs,
8 and all costs of preparing, issuing, and tracking prescription
9 blanks may be covered by the Department of Legal Affairs.

10 Section 12. This act shall take effect July 1, 2002.

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