

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1275 Prescription of Medication for Public School Students
SPONSOR(S): Barreiro
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1578 (s) & HB 1203 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education K-20	24 Y, 0 N	Hatfield	Bohannon
2) Health Care		Garner	Collins
3)			
4)			
5)			

SUMMARY ANALYSIS

Since the late 1990s, there have been a number of newspaper articles and anecdotal reports of public school personnel recommending or requiring parents to place their school-aged children on medications to control their behavior. Most commonly, parents report that a school official or teacher has recommended that a child be placed on a medication to treat attention deficit/hyperactivity disorder (ADHD). In these incidents, parents and guardians report that they are intimidated into placing their children on these medications against their will.

HB 1275 requires each district school board to prohibit school district personnel from requiring a student to obtain a prescription for, and take as medication, a controlled substance listed in Schedule II, s. 202(c) of the Controlled Substances Act (21 U.S.C. s. 812(c)), or any psychotropic or similar mind-altering drug as a condition of attending school or receiving educational services provided by the state.

This bill also clarifies that school district personnel may still consult or share classroom-based observations with parents regarding a student's academic performance, behavior in the classroom or school, and need for evaluation for special education or related services; provided the evaluation is strictly academic and not psychologically or psychiatrically based.

Although there is no fiscal impact assessment provided for this bill, there will likely be a minimal affect on the State Board of Education for the rulemaking activities necessary to implement the provisions of this section. There will also likely be a negative fiscal effect on the private sector as fewer referrals may occur because school personnel are prohibited from making a specific recommendation for medication.

The bill provides an effective date of July 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1275b.hc.doc
DATE: April 5, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

HB 1275 creates s. 1006.0625, F.S., requiring each district school board to prohibit school district personnel from requiring a student to obtain a prescription for, and take as medication, a controlled substance listed in Schedule II, s. 202(c) of the Controlled Substances Act (21 U.S.C. s. 812(c)), or any psychotropic or similar mind-altering drug as a condition of attending school or receiving educational services provided by the state.

This bill also clarifies that school district personnel may still consult or share classroom-based observations with parents regarding a student's academic performance, behavior in the classroom or school, and need for evaluation for special education or related services; provided the evaluation is strictly academic and not psychologically or psychiatrically based.

The bill provides the State Board of Education with rulemaking authority to implement the provisions of this section and provides an effective date of July 1, 2004.

PRESENT SITUATION

Since the late 1990s, there have been a number of newspaper articles and anecdotal reports of public school personnel recommending or requiring parents to place their school-aged children on medications to control their behavior. Most commonly, parents report that a school official or teacher has recommended that a child be placed on a medication to treat attention deficit/hyperactivity disorder (ADHD). In these incidents, parents and guardians report that they are intimidated to place their children on these medications against their will.

RECOMMENDATION FOR MEDICATION OF CHILDREN IN SCHOOL SETTINGS

While there have been a number of anecdotal stories, there are no known objective research studies of whether teachers are recommending the use of particular psychotropic medications, how often it occurs, or whether negative consequences (i.e., the child may not attend school) are routinely threatened against any family, in Florida or nationally.

In discussions with managers of the State Board of Education, Exceptional Student Education (ESE) Program Development and Services office, they report that if they receive a report of school personnel recommending or requiring medication that the department informs the parent that school personnel are not to make such recommendations, similar to what is required in HB 1275.

MEDICATION FOR BEHAVIORAL PROBLEMS

When medical doctors, psychiatrists, or other medical professionals determine that a behavioral problem exists that may be addressed through medication, they usually prescribe a medication from one or both of the classes of medications listed below:

1. **Schedule II Controlled Substances** — These are drugs with a high abuse risk, but also have safe and accepted medical uses in the United States. These drugs can cause severe psychological or physical dependence. Schedule II drugs include certain narcotics, stimulants, and depressant drugs. Some examples are morphine, cocaine, oxycodone (Percodan®), and dextroamphetamine (Dexedrine®).

Within this classification of drugs, methylphenidate (Ritalin®) is one of the most frequently prescribed medications used to treat children diagnosed with attention deficit/hyperactivity disorder (ADHD). Ritalin is a stimulant that's effect on reducing the symptoms of ADHD are well documented, but not well understood. Some researchers believe that the stimulant actually "overloads" the active parts of the brain that may contribute to ADHD, so the stimulant actually has a calming effect.

Some national estimates indicate that over ten million prescriptions are written annually for Ritalin, demonstrating that the problem is widespread. However, since Ritalin is a Schedule II controlled substance, it requires a new prescription each month. When taken into account, this drops the number of persons actually using the medication at any given time down to between 1 million and 2 million persons in the United States.

2. **Psychotropic Substances** – These medications are used to stabilize and promote the mental health of individuals. There are a wide variety of medications used for these purposes, some of which are used to reduce anxiety, depression, or even the side effects of the medications used to control the primary diagnosis of ADHD.

Some of the most common medication used for these purposes include the Selective Serotonin Reuptake Inhibitors (SSRIs)(e.g, Paxil, Effexor, etc.). Like the Schedule II controlled substances, most of the SSRIs have mild to moderate side effects. These medications have not been expressly approved by the FDA for use in non-adults. The use of these medications by children and teenagers is considered "off-label."

In fact, in March 2004, the U.S. Food and Drug Administration (FDA) issued a cautionary warning to the public and medical providers regarding the use of SSRIs and other anti-depressants by children and teenagers. Most importantly, the FDA warned that there may be an increase risk of suicide among young patients using these medications.

In April 2004, the British Medical Journal published a research article strongly criticizing the use of certain SSRIs by children and adolescents.¹ The researchers found:

- The efficacy of newer antidepressants for use in childhood depression has been exaggerated.
- That the clinical benefits of these medications are no better than a placebo.
- Adverse effects have been downplayed, including an increased risk of hostility and suicide.

The authors conclude by stating that antidepressants cannot be confidently recommended as a treatment option for childhood depression.

¹ Jureidini, Jon N., et.al. (2004). "Efficacy and safety of antidepressants for children and adolescents." *British Medical Journal*. Vol. 328. Pages 879-883.

SIMILAR LAWS IN OTHER STATES AND AT THE FEDERAL LEVEL

At the time of this analysis, five states have passed laws with language similar to that in HB 1275. These states are Colorado, Connecticut, Illinois, Minnesota, and Virginia. At least fourteen other states, including Florida, are considering bills to prohibit this behavior.

There are also federal bills being considered that create a federal prohibition against school personnel recommending the use of any psychotropic or other behavior modifying medication. H.R. 1170, The Child Medication Safety Act of 2003, passed the U.S. House of Representatives by a vote of 425 - 1 in May 2003. The corresponding bill in the U.S. Senate (S.B. 1390) has not moved as quickly and is currently in Committee. These bills also require the U.S. General Accounting Office (GAO) to conduct a study to determine the true extent of this problem.

C. SECTION DIRECTORY:

Section 1: Creates s. 1006.0625, F.S., provides that a school district may not require a student to obtain a prescription for a controlled substance listed in Schedule II of the federal Controlled Substances Act as a prerequisite to the student's attending school or receiving educational services provided by the state.

Section 2: Provides the State Board of Education with rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S.

Section 3: Provides an effective date of July 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

This bill would have a minimal fiscal effect on state government in that the State Board of Education is required to develop rules to implement the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Pharmaceutical companies may be negatively affected if the practice of teachers recommending students to pursue certain medications stops, especially if it is more widespread than known. Medical doctors and psychiatrists may receive fewer external referrals to conduct assessments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill gives the State Board of Education rulemaking authority necessary to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES