

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to controlled substances; creating s.  
7 831.311, F.S.; prohibiting the sale, manufacture,  
8 alteration, delivery, uttering, or possession of  
9 counterfeit-resistant prescription blanks for controlled  
10 substances; providing penalties; amending s. 893.04, F.S.;  
11 authorizing electronic recording of oral prescriptions for  
12 a controlled substance; providing additional requirements  
13 for the dispensing of a controlled substance listed in  
14 Schedule II, Schedule III, or Schedule IV; creating s.  
15 893.065, F.S.; requiring the Department of Health to  
16 develop and adopt by rule the form and content for a  
17 counterfeit-proof prescription blank for voluntary use by  
18 physicians to prescribe a controlled substance listed in  
19 Schedule II, Schedule III, or Schedule IV; providing  
20 contingent applicability of penalties; requiring reports  
21 of law enforcement agencies and medical examiners to  
22 include specified information if a person dies of an  
23 apparent overdose of a controlled substance listed in

HB 1449

2005  
CS

24 | Schedule II, Schedule III, or Schedule IV; providing an  
25 | effective date.

26 |

27 | Be It Enacted by the Legislature of the State of Florida:

28 |

29 | Section 1. Section 831.311, Florida Statutes, is created  
30 | to read:

31 | 831.311 Violations involving certain prescription blanks  
32 | for controlled substances in Schedules II-IV.--

33 | (1) It is unlawful for any person with the intent to  
34 | injure or defraud any person or to facilitate any violation of  
35 | s. 893.13 to sell, manufacture, alter, deliver, utter, or  
36 | possess any counterfeit-resistant prescription blank for  
37 | controlled substances as provided for in s. 893.065.

38 | (2) Any person who violates this section commits a felony  
39 | of the third degree, punishable as provided in s. 775.082, s.  
40 | 775.083, or s. 775.084.

41 | Section 2. Section 893.04, Florida Statutes, is amended to  
42 | read:

43 | 893.04 Pharmacist and practitioner.--

44 | (1) A pharmacist, in good faith and in the course of  
45 | professional practice only, may dispense controlled substances  
46 | upon a written or oral prescription of a practitioner, under the  
47 | following conditions:

48 | (a) Oral prescriptions must be promptly reduced to writing  
49 | by the pharmacist or recorded electronically.

50 | (b) The written prescription must be dated and signed by  
51 | the prescribing practitioner on the day when issued.

HB 1449

2005  
CS

52 (c) There shall appear on the face of the prescription or  
53 written record thereof for the controlled substance the  
54 following information:

55 1. The full name and address of the person for whom, or  
56 the owner of the animal for which, the controlled substance is  
57 dispensed.

58 2. The full name and address of the prescribing  
59 practitioner and the practitioner's federal controlled substance  
60 registry number shall be printed thereon.

61 3. If the prescription is for an animal, the species of  
62 animal for which the controlled substance is prescribed.

63 4. The name of the controlled substance prescribed and the  
64 strength, quantity, and directions for use thereof.

65 5. The number of the prescription, as recorded in the  
66 prescription files of the pharmacy in which it is filled.

67 6. The initials of the pharmacist filling the prescription  
68 and the date filled.

69 (d) The prescription shall be retained on file by the  
70 proprietor of the pharmacy in which it is filled for a period of  
71 2 years.

72 (e) Affixed to the original container in which a  
73 controlled substance is delivered upon a prescription or  
74 authorized refill thereof, as hereinafter provided, there shall  
75 be a label bearing the following information:

76 1. The name and address of the pharmacy from which such  
77 controlled substance was dispensed.

78 2. The date on which the prescription for such controlled  
79 substance was filled.

HB 1449

2005  
CS

80 3. The number of such prescription, as recorded in the  
81 prescription files of the pharmacy in which it is filled.

82 4. The name of the prescribing practitioner.

83 5. The name of the patient for whom, or of the owner and  
84 species of the animal for which, the controlled substance is  
85 prescribed.

86 6. The directions for the use of the controlled substance  
87 prescribed in the prescription.

88 7. A clear, concise warning that it is a crime to transfer  
89 the controlled substance to any person other than the patient  
90 for whom prescribed.

91 (f) A prescription for a controlled substance listed in  
92 Schedule II may be dispensed only upon a written prescription of  
93 a practitioner, except that in an emergency situation, as  
94 defined by regulation of the Department of Health, such  
95 controlled substance may be dispensed upon oral prescription but  
96 is limited to a 72-hour supply. No prescription for a controlled  
97 substance listed in Schedule II may be refilled.

98 (g) No prescription for a controlled substance listed in  
99 Schedule ~~Schedules~~ III, Schedule IV, or Schedule V may be filled  
100 or refilled more than five times within a period of 6 months  
101 after the date on which the prescription was written unless the  
102 prescription is renewed by a practitioner.

103 (2)(a) A pharmacist may not dispense a controlled  
104 substance listed in Schedule II, Schedule III, or Schedule IV to  
105 any patient or patient's agent without first determining, in the  
106 exercise of her or his professional judgment, that the order is  
107 valid. The pharmacist may dispense the controlled substance, in

108 the exercise of her or his professional judgment, when the  
 109 pharmacist or pharmacist's agent has obtained satisfactory  
 110 patient information from the patient or the patient's agent.

111 (b) Any pharmacist that dispenses by mail a controlled  
 112 substance listed in Schedule II, Schedule III, or Schedule IV  
 113 shall be exempt from the requirement to obtain suitable  
 114 identification for the prescription dispensed by mail.

115 (c) Any controlled substance listed in Schedule III or  
 116 Schedule IV may be dispensed by a pharmacist upon an oral  
 117 prescription if, before filling the prescription, the pharmacist  
 118 reduces the prescription to writing or records it  
 119 electronically. Such prescriptions must contain the date of the  
 120 oral authorization.

121 (d) Each written prescription from a practitioner in this  
 122 state for a controlled substance listed in Schedule II, Schedule  
 123 III, or Schedule IV must include both a written and a numerical  
 124 notation of the quantity on the face of the prescription and a  
 125 notation of the date with the abbreviated month written out on  
 126 the face of the prescription. A pharmacist may, upon  
 127 verification by the prescriber, document any information  
 128 required by this paragraph.

129 (e) A pharmacist may not dispense more than a 30-day  
 130 supply of a controlled substance listed in Schedule III upon an  
 131 oral prescription issued in this state.

132 (f) A pharmacist may not knowingly fill a prescription  
 133 that has been forged for a controlled substance listed in  
 134 Schedule II, Schedule III, or Schedule IV.

HB 1449

2005  
CS

135        ~~(3)(2)~~ Notwithstanding the provisions of subsection (1), a  
 136 pharmacist may dispense a one-time emergency refill of up to a  
 137 72-hour supply of the prescribed medication for any medicinal  
 138 drug other than a medicinal drug listed in Schedule II, in  
 139 compliance with the provisions of s. 465.0275.

140        ~~(4)(3)~~ The legal owner of any stock of controlled  
 141 substances in a pharmacy, upon discontinuance of dealing in  
 142 controlled substances, may sell said stock to a manufacturer,  
 143 wholesaler, or pharmacy. Such controlled substances may be sold  
 144 only upon an order form, when such an order form is required for  
 145 sale by the drug abuse laws of the United States or this state,  
 146 or regulations pursuant thereto.

147        Section 3. Section 893.065, Florida Statutes, is created  
 148 to read:

149        893.065 Counterfeit-resistant prescription blanks for  
 150 controlled substances listed in Schedules II-IV.--The Department  
 151 of Health shall develop and adopt by rule the form and content  
 152 for a counterfeit-resistant prescription blank that may be used  
 153 by practitioners to prescribe a controlled substance listed in  
 154 Schedule II, Schedule III, or Schedule IV. The Department of  
 155 Health may require the prescription blanks to be printed on  
 156 distinctive, watermarked paper and to bear the preprinted name,  
 157 address, and category of professional licensure of the  
 158 practitioner and that practitioner's federal registry number for  
 159 controlled substances. The prescription blanks may not be  
 160 transferred.

161        Section 4. The penalties created in s. 831.311(2), Florida  
 162 Statutes, by this act shall be effective only upon the adoption

HB 1449

2005  
CS

163 of the rules required pursuant to s. 893.065, Florida Statutes,  
 164 as created by this act.

165 Section 5. If a person dies of an apparent drug overdose:

166 (1) A law enforcement agency shall prepare a report  
 167 identifying each prescribed controlled substance listed in  
 168 Schedule II, Schedule III, or Schedule IV that is found on or  
 169 near the deceased or among the deceased's possessions. The  
 170 report must identify the person who prescribed the controlled  
 171 substance, if known or ascertainable. Thereafter, the law  
 172 enforcement agency shall submit a copy of the report to the  
 173 medical examiner.

174 (2) A medical examiner who is preparing a report pursuant  
 175 to s. 406.11, Florida Statutes, shall include in the report  
 176 information identifying each prescribed controlled substance  
 177 listed in Schedule II, Schedule III, or Schedule IV that was  
 178 found in, on, or near the deceased or among the deceased's  
 179 possessions.

180 Section 6. This act shall take effect July 1, 2005.