

By Senator Fasano

11-863-05

See HB

1 A bill to be entitled

2 An act relating to controlled substances;

3 creating s. 831.311, F.S.; prohibiting the

4 sale, manufacture, alteration, delivery,

5 uttering, or possession of

6 counterfeit-resistant prescription blanks for

7 controlled substances; providing penalties;

8 amending s. 893.04, F.S.; authorizing

9 electronic recording of oral prescriptions for

10 a controlled substance; providing additional

11 requirements for the dispensing of a controlled

12 substance listed in Schedule II, Schedule III,

13 or Schedule IV; providing rulemaking authority

14 to the Board of Pharmacy; creating s. 893.065,

15 F.S.; requiring the Department of Health to

16 develop and adopt by rule the form and content

17 for a counterfeit-proof prescription blank for

18 voluntary use by physicians to prescribe a

19 controlled substance listed in Schedule II,

20 Schedule III, or Schedule IV; providing

21 contingent applicability of penalties;

22 requiring reports of law enforcement agencies

23 and medical examiners to include specified

24 information if a person dies of an apparent

25 overdose of a controlled substance listed in

26 Schedule II, Schedule III, or Schedule IV;

27 providing an effective date.

28

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

30

31

1 Section 1. Section 831.311, Florida Statutes, is
2 created to read:

3 831.311 Violations involving certain prescription
4 blanks for controlled substances in Schedules II-IV.--

5 (1) It is unlawful for any person with the intent to
6 injure or defraud any person or to facilitate any violation of
7 s. 893.13 to sell, manufacture, alter, deliver, utter, or
8 possess any counterfeit-resistant prescription blank for
9 controlled substances as provided for in s. 893.065.

10 (2) Any person who violates this section commits a
11 felony of the third degree, punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084.

13 Section 2. Section 893.04, Florida Statutes, is
14 amended to read:

15 893.04 Pharmacist and practitioner.--

16 (1) A pharmacist, in good faith and in the course of
17 professional practice only, may dispense controlled substances
18 upon a written or oral prescription of a practitioner, under
19 the following conditions:

20 (a) Oral prescriptions must be promptly reduced to
21 writing by the pharmacist or recorded electronically.

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

24 (c) There shall appear on the face of the prescription
25 or written record thereof for the controlled substance the
26 following information:

27 1. The full name and address of the person for whom,
28 or the owner of the animal for which, the controlled substance
29 is dispensed.

30
31

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

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

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

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

10 6. The initials of the pharmacist filling the
11 prescription and the date filled.

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

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

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

21 2. The date on which the prescription for such
22 controlled substance was filled.

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

25 4. The name of the prescribing practitioner.

26 5. The name of the patient for whom, or of the owner
27 and species of the animal for which, the controlled substance
28 is prescribed.

29 6. The directions for the use of the controlled
30 substance prescribed in the prescription.

31

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

4 (f) A prescription for a controlled substance listed
5 in Schedule II may be dispensed only upon a written
6 prescription of a practitioner, except that in an emergency
7 situation, as defined by regulation of the Department of
8 Health, such controlled substance may be dispensed upon oral
9 prescription but is limited to a 72-hour supply. No
10 prescription for a controlled substance listed in Schedule II
11 may be refilled.

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

17 (2)(a) A pharmacist may not dispense a controlled
18 substance listed in Schedule II, Schedule III, or Schedule IV
19 to any patient or patient's agent without first determining,
20 in the exercise of her or his professional judgment, that the
21 order is valid. The pharmacist or pharmacist's agent must also
22 obtain the patient's or the patient's agent's identification
23 information, in writing, electronic format, or other approved
24 manner prior to dispensing any controlled substance. If the
25 patient or the patient's agent does not have appropriate
26 identification, the pharmacist may dispense the controlled
27 substance only when the pharmacist determines, in the exercise
28 of her or his professional judgment, that the order is valid
29 and includes such information in the patient's record. The
30 Board of Pharmacy may adopt, by rule, required patient or
31 patient agent identification information for controlled

1 substances and procedures for a pharmacist to verify the
2 validity of a prescription for controlled substances for
3 circumstances in which the pharmacist is not provided required
4 identification information.

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

9 (c) Any controlled substance listed in Schedule III or
10 Schedule IV may be dispensed by a pharmacist upon an oral
11 prescription if, before filling the prescription, the
12 pharmacist reduces the prescription to writing or records it
13 electronically. Such prescriptions must contain the date of
14 the oral authorization.

15 (d) Each written prescription from a practitioner in
16 this state for a controlled substance listed in Schedule II,
17 Schedule III, or Schedule IV must include both a written and a
18 numerical notation of the quantity on the face of the
19 prescription and a notation of the date with the abbreviated
20 month written out on the face of the prescription. A
21 pharmacist may, upon verification by the prescriber, document
22 any information required by this paragraph.

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

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

29 (3)(2) Notwithstanding the provisions of subsection
30 (1), a pharmacist may dispense a one-time emergency refill of
31 up to a 72-hour supply of the prescribed medication for any

1 medicinal drug other than a medicinal drug listed in Schedule
2 II, in compliance with the provisions of s. 465.0275.

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

10 Section 3. Section 893.065, Florida Statutes, is
11 created to read:

12 893.065 Counterfeit-resistant prescription blanks for
13 controlled substances listed in Schedules II-IV.--The
14 Department of Health shall develop and adopt by rule the form
15 and content for a counterfeit-resistant prescription blank
16 that may be used by practitioners to prescribe a controlled
17 substance listed in Schedule II, Schedule III, or Schedule IV.
18 The Department of Health may require the prescription blanks
19 to be printed on distinctive, watermarked paper and to bear
20 the preprinted name, address, and category of professional
21 licensure of the practitioner and that practitioner's federal
22 registry number for controlled substances. The prescription
23 blanks may not be transferred.

24 Section 4. The penalties created in section
25 831.311(2), Florida Statutes, by this act shall be effective
26 only upon the adoption of the rules required pursuant to
27 section 893.065, Florida Statutes, as created by this act.

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

30 (1) A law enforcement agency shall prepare a report
31 identifying each prescribed controlled substance listed in

1 Schedule II, Schedule III, or Schedule IV that is found on or
2 near the deceased or among the deceased's possessions. The
3 report must identify the person who prescribed the controlled
4 substance, if known or ascertainable. Thereafter, the law
5 enforcement agency shall submit a copy of the report to the
6 medical examiner.

7 (2) A medical examiner who is preparing a report
8 pursuant to section 406.11, Florida Statutes, shall include in
9 the report information identifying each prescribed controlled
10 substance listed in Schedule II, Schedule III, or Schedule IV
11 that was found in, on, or near the deceased or among the
12 deceased's possessions.

13 Section 6. This act shall take effect July 1, 2005.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31