

1 A bill to be entitled
2 An act relating to drugs; amending s. 465.022, F.S.;
3 requiring pharmacies doing business by Internet to
4 receive, display, and maintain a specified certifying seal
5 of approval; amending s. 893.147, F.S.; providing that the
6 use or possession of drug paraphernalia with intent to
7 undertake certain activities concerning the manufacture or
8 production of methamphetamine is a felony of the second
9 degree; creating s. 408.0611, F.S.; providing legislative
10 intent; providing definitions; requiring the Agency for
11 Health Care Administration to create a clearinghouse of
12 information on electronic prescribing; requiring the
13 agency to monitor and report on the implementation of
14 electronic prescribing; creating s. 831.311, F.S.;
15 prohibiting the sale, manufacture, alteration, delivery,
16 uttering, or possession of counterfeit-resistant
17 prescription blanks for controlled substances; providing
18 penalties; amending s. 893.04, F.S.; authorizing
19 electronic recording of oral prescriptions for a
20 controlled substance; providing additional requirements
21 for the dispensing of a controlled substance listed in
22 Schedule II, Schedule III, or Schedule IV; creating s.
23 893.065, F.S.; requiring the Department of Health to
24 develop and adopt by rule the form and content for a
25 counterfeit-resistant prescription blank for voluntary use
26 by practitioners to prescribe a controlled substance
27 listed in Schedule II, Schedule III, or Schedule IV;
28 providing contingent applicability of penalties; requiring

29 reports of law enforcement agencies and medical examiners
 30 to include specified information if a person dies of an
 31 apparent overdose of a controlled substance listed in
 32 Schedule II, Schedule III, or Schedule IV; authorizing
 33 Agency for Health Care Administration to seek federal
 34 grant moneys for specified purposes; providing legislative
 35 intent concerning resources for implementation of the act;
 36 providing effective dates.

37

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

39

40 Section 1. Effective February 28, 2008, subsection (9) is
 41 added to section 465.022, Florida Statutes, to read:

42 465.022 Pharmacies; general requirements; fees.--

43 (9) Any pharmacy doing business primarily or exclusively
 44 by use of the Internet or mail order shall, prior to obtaining a
 45 permit and any renewals thereafter, receive and display in every
 46 medium in which it advertises itself a seal of approval for the
 47 National Association of Boards of Pharmacy certifying that it is
 48 a Verified Internet Pharmacy Practice Site (VIPPS). VIPPS
 49 certification shall be maintained and remain current.

50 Section 2. Subsection (1) of section 893.147, Florida
 51 Statutes, is amended to read:

52 893.147 Use, possession, manufacture, delivery,
 53 transportation, or advertisement of drug paraphernalia.--

54 (1) USE OR POSSESSION OF DRUG PARAPHERNALIA.--~~A It is~~
 55 ~~unlawful for any person who uses, or possesses to use, or to~~
 56 ~~possess~~ with intent to use, drug paraphernalia:

57 (a) To plant, propagate, cultivate, grow, harvest,
 58 manufacture, compound, convert, produce, process, prepare, test,
 59 analyze, pack, repack, store, contain, or conceal a controlled
 60 substance in violation of this chapter commits a misdemeanor of
 61 the first degree, punishable as provided in s. 775.082 or s.
 62 775.083. ~~+~~ ~~or~~

63 (b) To inject, ingest, inhale, or otherwise introduce into
 64 the human body a controlled substance in violation of this
 65 chapter commits a misdemeanor of the first degree, punishable as
 66 provided in s. 775.082 or s. 775.083.

67 (c) To manufacture, compound, convert, produce, process,
 68 or prepare methamphetamine in violation of this chapter commits
 69 a felony of the second degree, punishable as provided in s.
 70 775.082, s. 775.083, or s. 775.084.

71
 72 ~~Any person who violates this subsection is guilty of a~~
 73 ~~misdemeanor of the first degree, punishable as provided in s.~~
 74 ~~775.082 or s. 775.083.~~

75 Section 3. Section 408.0611, Florida Statutes, is created
 76 to read:

77 408.0611 Electronic prescribing clearinghouse.--

78 (1) It is the intent of the Legislature to promote the
 79 implementation of electronic prescribing by healthcare
 80 practitioners, healthcare facilities, and pharmacies in order to
 81 prevent prescription drug abuse, improve patient safety, and
 82 reduce unnecessary prescriptions. To that end, it is the intent
 83 of the Legislature to create a clearinghouse of information on
 84 electronic prescribing to convey the process and advantages of

85 electronic prescribing; to provide information regarding the
86 availability of electronic prescribing products, including no-
87 cost or low-cost products; and to regularly convene stakeholders
88 to assess and accelerate the implementation of electronic
89 prescribing.

90 (2) As used in this section, the term:

91 (a) "Electronic prescribing" means, at a minimum, the
92 electronic review of the patient's medication history, the
93 electronic generation of the patient's prescription, and the
94 electronic transmission of the patient's prescription to a
95 pharmacy.

96 (b) "Healthcare practitioner" means a person authorized by
97 law to prescribe drugs.

98 (3) The agency shall work in collaboration with private-
99 sector electronic prescribing initiatives and relevant
100 stakeholders to create a clearinghouse of information on
101 electronic prescribing for healthcare practitioners, healthcare
102 facilities, and pharmacies. These stakeholders shall include
103 organizations that represent healthcare practitioners,
104 organizations that represent healthcare facilities,
105 organizations that represent pharmacies, organizations that
106 operate electronic prescribing networks, organizations that
107 create electronic prescribing products, and regional health
108 information organizations. Specifically, the agency shall, by
109 October 1, 2007:

110 (a) Provide on its website:

111 1. Information regarding the process of electronic
112 prescribing and the availability of electronic prescribing

113 products, including no-cost or low-cost products;

114 2. Information regarding the advantages of electronic
115 prescribing, including utilizing medication history data to
116 prevent drug interactions, prevent allergic reactions, and deter
117 doctor and pharmacy shopping for controlled substances;

118 3. Links to federal and private-sector websites that
119 provide guidance on selecting an appropriate electronic
120 prescribing product; and

121 4. Links to state, federal, and private-sector incentive
122 programs for the implementation of electronic prescribing.

123 (b) Convene quarterly meetings of the stakeholders to
124 assess and accelerate the implementation of electronic
125 prescribing.

126 (4) Pursuant to s. 408.061, the agency shall monitor the
127 implementation of electronic prescribing by healthcare
128 practitioners, healthcare facilities, and pharmacies. By January
129 31 of each year, the agency shall report on the progress of
130 implementation of electronic prescribing to the Governor and the
131 Legislature. Information reported pursuant to this subsection
132 shall include federal and private-sector electronic prescribing
133 initiatives and, to the extent that data is readily available
134 from organizations that operate electronic prescribing networks,
135 the number of healthcare practitioners using electronic
136 prescribing, and the number of prescriptions electronically
137 transmitted.

138 Section 4. Subsection (7) of section 465.022, Florida
139 Statutes, is amended to read:

140 465.022 Pharmacies; general requirements; fees.--

141 (7) Permits issued by the department are not transferable.

142 Section 5. Section 831.311, Florida Statutes, is created
143 to read:

144 831.311 Violations involving certain prescription blanks
145 for controlled substances in Schedules II-IV.--

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

151 (2) Any person who violates this section commits a felony
152 of the third degree, punishable as provided in s. 775.082, s.
153 775.083, or s. 775.084.

154 Section 6. Section 893.04, Florida Statutes, is amended to
155 read:

156 893.04 Pharmacist and practitioner.--

157 (1) A pharmacist, in good faith and in the course of
158 professional practice only, may dispense controlled substances
159 upon a written or oral prescription of a practitioner, under the
160 following conditions:

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

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

165 (c) There shall appear on the face of the prescription or
166 written record thereof for the controlled substance the
167 following information:

168 1. The full name and address of the person for whom, or

169 the owner of the animal for which, the controlled substance is
 170 dispensed.

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

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

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

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

180 6. The initials of the pharmacist filling the prescription
 181 and the date filled.

182 (d) The prescription shall be retained on file by the
 183 proprietor of the pharmacy in which it is filled for a period of
 184 2 years.

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

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

191 2. The date on which the prescription for such controlled
 192 substance was filled.

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

195 4. The name of the prescribing practitioner.

196 5. The name of the patient for whom, or of the owner and

197 species of the animal for which, the controlled substance is
 198 prescribed.

199 6. The directions for the use of the controlled substance
 200 prescribed in the prescription.

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

204 (f) A prescription for a controlled substance listed in
 205 Schedule II may be dispensed only upon a written prescription of
 206 a practitioner, except that in an emergency situation, as
 207 defined by regulation of the Department of Health, such
 208 controlled substance may be dispensed upon oral prescription but
 209 is limited to a 72-hour supply. No prescription for a controlled
 210 substance listed in Schedule II may be refilled.

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

216 (2) (a) A pharmacist may not dispense a controlled
 217 substance listed in Schedule II, Schedule III, or Schedule IV to
 218 any patient or patient's agent without first determining, in the
 219 exercise of his or her professional judgment, that the order is
 220 valid. The pharmacist may dispense the controlled substance, in
 221 the exercise of his or her professional judgment, when the
 222 pharmacist or pharmacist's agent has obtained satisfactory
 223 patient information from the patient or the patient's agent.

224 (b) Any pharmacist who dispenses by mail a controlled

225 substance listed in Schedule II, Schedule III, or Schedule IV
 226 shall be exempt from the requirement to obtain suitable
 227 identification for the prescription dispensed by mail.

228 (c) Any controlled substance listed in Schedule III or
 229 Schedule IV may be dispensed by a pharmacist upon an oral
 230 prescription if, before filling the prescription, the pharmacist
 231 reduces the prescription to writing or records it
 232 electronically. Such prescriptions must contain the date of the
 233 oral authorization.

234 (d) Each written prescription from a practitioner in this
 235 state for a controlled substance listed in Schedule II, Schedule
 236 III, or Schedule IV must include both a written and a numerical
 237 notation of the quantity on the face of the prescription and a
 238 notation of the date with the abbreviated month written out on
 239 the face of the prescription. A pharmacist may, upon
 240 verification by the prescriber, document any information
 241 required by this paragraph.

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

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

248 (3)~~(2)~~ Notwithstanding the provisions of subsection (1), a
 249 pharmacist may dispense a one-time emergency refill of up to a
 250 72-hour supply of the prescribed medication for any medicinal
 251 drug other than a medicinal drug listed in Schedule II, in
 252 compliance with the provisions of s. 465.0275.

253 ~~(4)(3)~~ The legal owner of any stock of controlled
 254 substances in a pharmacy, upon discontinuance of dealing in
 255 controlled substances, may sell said stock to a manufacturer,
 256 wholesaler, or pharmacy. Such controlled substances may be sold
 257 only upon an order form, when such an order form is required for
 258 sale by the drug abuse laws of the United States or this state,
 259 or regulations pursuant thereto.

260 Section 7. Section 893.065, Florida Statutes, is created
 261 to read:

262 893.065 Counterfeit-resistant prescription blanks for
 263 controlled substances listed in Schedules II-IV.--The department
 264 shall develop and adopt by rule the form and content for a
 265 counterfeit-resistant prescription blank that may be used by
 266 practitioners to prescribe a controlled substance listed in
 267 Schedule II, Schedule III, or Schedule IV. The department may
 268 require the prescription blanks to be printed on distinctive,
 269 watermarked paper and to bear the preprinted name, address, and
 270 category of professional licensure of the practitioner and that
 271 practitioner's federal registry number for controlled
 272 substances. The prescription blanks may not be transferred.

273 Section 8. The penalties created in s. 831.311(2), Florida
 274 Statutes, by this act shall be effective only upon the adoption
 275 of the rules required pursuant to s. 893.065, Florida Statutes,
 276 as created by this act.

277 Section 9. If a person dies of an apparent drug overdose:

278 (1) A law enforcement agency shall prepare a report
 279 identifying each prescribed controlled substance listed in
 280 Schedule II, Schedule III, or Schedule IV of s. 893.03, Florida

281 Statutes, that is found on or near the deceased or among the
282 deceased's possessions. The report must identify the person who
283 prescribed the controlled substance, if known or ascertainable.
284 Thereafter, the law enforcement agency shall submit a copy of
285 the report to the medical examiner.

286 (2) A medical examiner who is preparing a report pursuant
287 to s. 406.11, Florida Statutes, shall include in the report
288 information identifying each prescribed controlled substance
289 listed in Schedule II, Schedule III, or Schedule IV of s.
290 893.03, Florida Statutes, that was found in, on, or near the
291 deceased or among the deceased's possessions.

292 Section 10. The Agency for Health Care Administration is
293 authorized to seek federal grant moneys to implement the
294 provisions of this act. It is the intent of the Legislature that
295 the agency implement the provisions of this act within existing
296 resources, federal grant dollars, or a future appropriation.

297 Section 11. Except as otherwise expressly provided in this
298 act, this act shall take effect July 1, 2007.