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HB 1155, Engrossed 3

2007 Legislature

1 A bill to be entitled
2 An act relating to drugs; creating s. 831.311, F.S.;
3 prohibiting the sale, manufacture, alteration, delivery,
4 uttering, or possession of counterfeit-resistant
5 prescription blanks for controlled substances with the
6 intent to injure or defraud; providing penalties; amending
7 s. 893.04, F.S.; providing additional requirements for the
8 dispensing of a controlled substance listed in Schedule
9 II, Schedule III, or Schedule IV; specifying circumstances
10 under which a pharmacist who dispenses controlled
11 substances by mail is exempt from certain requirements
12 governing patient identification; providing requirements
13 and limitations for dispensing controlled substances upon
14 an oral prescription; creating s. 408.0611, F.S.;
15 providing legislative intent; providing definitions;
16 requiring the Agency for Health Care Administration to
17 create a clearinghouse of information on electronic
18 prescribing; requiring the agency to monitor and report on
19 the implementation of electronic prescribing; creating s.
20 893.065, F.S.; requiring the department to develop and
21 adopt by rule the form and content for a counterfeit-proof
22 prescription blank for voluntary use by physicians in
23 prescribing a controlled substance listed in Schedule II,
24 Schedule III, or Schedule IV; providing that penalties
25 shall become effective only upon adoption of rules;
26 prescribing duties of law enforcement agencies and medical
27 examiners when a person dies of an apparent drug overdose;
28 providing an effective date.

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

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

831.311 Unlawful sale, manufacture, alteration, delivery, uttering, or possession of counterfeit-resistant prescription blanks for controlled substances.--

(1) It is unlawful for any person having the intent to injure or defraud any person or to facilitate any violation of s. 893.13 to sell, manufacture, alter, deliver, utter, or possess with intent to injure or defraud any person, or to facilitate any violation of s. 893.13, any counterfeit-resistant prescription blanks for controlled substances, the form and content of which are adopted by rule of the Department of Health pursuant to s. 893.065.

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

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

893.04 Pharmacist and practitioner.--

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

(a) Oral prescriptions must be promptly reduced to writing by the pharmacist or recorded electronically if permitted by

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57 | federal law.

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

60 | (c) There shall appear on the face of the prescription or
 61 | written record thereof for the controlled substance the
 62 | following information:

63 | 1. The full name and address of the person for whom, or
 64 | the owner of the animal for which, the controlled substance is
 65 | dispensed.

66 | 2. The full name and address of the prescribing
 67 | practitioner and the practitioner's federal controlled substance
 68 | registry number shall be printed thereon.

69 | 3. If the prescription is for an animal, the species of
 70 | animal for which the controlled substance is prescribed.

71 | 4. The name of the controlled substance prescribed and the
 72 | strength, quantity, and directions for use thereof.

73 | 5. The number of the prescription, as recorded in the
 74 | prescription files of the pharmacy in which it is filled.

75 | 6. The initials of the pharmacist filling the prescription
 76 | and the date filled.

77 | (d) The prescription shall be retained on file by the
 78 | proprietor of the pharmacy in which it is filled for a period of
 79 | 2 years.

80 | (e) Affixed to the original container in which a
 81 | controlled substance is delivered upon a prescription or
 82 | authorized refill thereof, as hereinafter provided, there shall
 83 | be a label bearing the following information:

84 | 1. The name and address of the pharmacy from which such

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85 controlled substance was dispensed.

86 2. The date on which the prescription for such controlled
 87 substance was filled.

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

90 4. The name of the prescribing practitioner.

91 5. The name of the patient for whom, or of the owner and
 92 species of the animal for which, the controlled substance is
 93 prescribed.

94 6. The directions for the use of the controlled substance
 95 prescribed in the prescription.

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

99 (f) A prescription for a controlled substance listed in
 100 Schedule II may be dispensed only upon a written prescription of
 101 a practitioner, except that in an emergency situation, as
 102 defined by regulation of the Department of Health, such
 103 controlled substance may be dispensed upon oral prescription but
 104 is limited to a 72-hour supply. A ~~No~~ prescription for a
 105 controlled substance listed in Schedule II may not be refilled.

106 (g) A ~~No~~ prescription for a controlled substance listed in
 107 Schedule ~~Schedules~~ III, Schedule IV, or Schedule V may not be
 108 filled or refilled more than five times within a period of 6
 109 months after the date on which the prescription was written
 110 unless the prescription is renewed by a practitioner.

111 (2) (a) A pharmacist may not dispense a controlled
 112 substance listed in Schedule II, Schedule III, or Schedule IV to

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113 any patient or patient's agent without first determining, in the
114 exercise of her or his professional judgment, that the order is
115 valid. The pharmacist may dispense the controlled substance, in
116 the exercise of her or his professional judgment, when the
117 pharmacist or pharmacist's agent has obtained satisfactory
118 patient information from the patient or the patient's agent.

119 (b) Any pharmacist who dispenses by mail a controlled
120 substance listed in Schedule II, Schedule III, or Schedule IV is
121 exempt from the requirement to obtain suitable identification
122 for the prescription dispensed by mail if the pharmacist has
123 obtained the patient's identification through the patient's
124 prescription benefit plan.

125 (c) Any controlled substance listed in Schedule III or
126 Schedule IV may be dispensed by a pharmacist upon an oral
127 prescription if, before filling the prescription, the pharmacist
128 reduces it to writing or records the prescription electronically
129 if permitted by federal law. Such prescriptions must contain the
130 date of the oral authorization.

131 (d) Each written prescription prescribed by a practitioner
132 in this state for a controlled substance listed in Schedule II,
133 Schedule III, or Schedule IV must include both a written and a
134 numerical notation of the quantity on the face of the
135 prescription and a notation of the date, with the abbreviated
136 month written out on the face of the prescription. A pharmacist
137 may, upon verification by the prescriber, document any
138 information required by this paragraph.

139 (e) A pharmacist may not dispense more than a 30-day
140 supply of a controlled substance listed in Schedule III upon an

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141 oral prescription issued in this state.

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

145 ~~(3)(2)~~ Notwithstanding the ~~provisions of~~ subsection (1), a
 146 pharmacist may dispense a one-time emergency refill of up to a
 147 72-hour supply of the prescribed medication for any medicinal
 148 drug other than a medicinal drug listed in Schedule II, in
 149 compliance with the provisions of s. 465.0275.

150 ~~(4)(3)~~ The legal owner of any stock of controlled
 151 substances in a pharmacy, upon discontinuance of dealing in
 152 controlled substances, may sell said stock to a manufacturer,
 153 wholesaler, or pharmacy. Such controlled substances may be sold
 154 only upon an order form, when such an order form is required for
 155 sale by the drug abuse laws of the United States or this state,
 156 or regulations pursuant thereto.

157 Section 3. Section 408.0611, Florida Statutes, is created
 158 to read:

159 408.0611 Electronic prescribing clearinghouse.--

160 (1) It is the intent of the Legislature to promote the
 161 implementation of electronic prescribing by health care
 162 practitioners, health care facilities, and pharmacies in order
 163 to prevent prescription drug abuse, improve patient safety, and
 164 reduce unnecessary prescriptions. To that end, it is the intent
 165 of the Legislature to create a clearinghouse of information on
 166 electronic prescribing to convey the process and advantages of
 167 electronic prescribing; to provide information regarding the
 168 availability of electronic prescribing products, including no-

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169 cost or low-cost products; and to regularly convene stakeholders
 170 to assess and accelerate the implementation of electronic
 171 prescribing.

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

173 (a) "Electronic prescribing" means, at a minimum, the
 174 electronic review of the patient's medication history, the
 175 electronic generation of the patient's prescription, and the
 176 electronic transmission of the patient's prescription to a
 177 pharmacy.

178 (b) "Health care practitioner" means an individual
 179 authorized by law to prescribe drugs.

180 (3) The agency shall work in collaboration with private-
 181 sector electronic prescribing initiatives and relevant
 182 stakeholders to create a clearinghouse of information on
 183 electronic prescribing for health care practitioners, health
 184 care facilities, and pharmacies. These stakeholders shall
 185 include organizations that represent health care practitioners;
 186 organizations that represent health care facilities;
 187 organizations that represent pharmacies; organizations that
 188 operate electronic prescribing networks; organizations that
 189 create electronic prescribing products; and regional health
 190 information organizations. Specifically, the agency shall, by
 191 October 1, 2007:

192 (a) Provide on its website:

193 1. Information regarding the process of electronic
 194 prescribing and the availability of electronic prescribing
 195 products, including no-cost or low-cost products;

196 2. Information regarding the advantages of electronic

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197 prescribing, including using medication history data to prevent
 198 drug interactions, prevent allergic reactions, and deter doctor
 199 and pharmacy shopping for controlled substances;

200 3. Links to federal and private-sector websites that
 201 provide guidance on selecting an appropriate electronic
 202 prescribing product; and

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

205 (b) Convene quarterly meetings of the stakeholders to
 206 assess and accelerate the implementation of electronic
 207 prescribing.

208 (4) Pursuant to s. 408.061, the agency shall monitor the
 209 implementation of electronic prescribing by health care
 210 practitioners, health care facilities, and pharmacies. By
 211 January 31 of each year, the agency shall report on the progress
 212 of implementation of electronic prescribing to the Governor and
 213 the Legislature. Information reported pursuant to this
 214 subsection shall include federal and private-sector electronic
 215 prescribing initiatives and, to the extent that data is readily
 216 available from organizations that operate electronic prescribing
 217 networks, the number of health care practitioners using
 218 electronic prescribing and the number of prescriptions
 219 electronically transmitted.

220 Section 4. Section 893.065, Florida Statutes, is created
 221 to read:

222 893.065 Counterfeit-resistant prescription blanks for
 223 controlled substances listed in Schedule II, Schedule III, or
 224 Schedule IV.--The Department of Health shall develop and adopt

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225 by rule the form and content for a counterfeit-resistant
 226 prescription blank which may be used by practitioners for the
 227 purpose of prescribing a controlled substance listed in Schedule
 228 II, Schedule III, or Schedule IV. The Department of Health may
 229 require the prescription blanks to be printed on distinctive,
 230 watermarked paper and to bear the preprinted name, address, and
 231 category of professional licensure of the practitioner and that
 232 practitioner's federal registry number for controlled
 233 substances. The prescription blanks may not be transferred.

234 Section 5. The penalties created in s. 831.311(2), Florida
 235 Statutes, by this act shall be effective only upon the adoption
 236 of the rules required pursuant to s. 893.065, Florida Statutes,
 237 as created by this act.

238 Section 6. If a person dies of an apparent drug overdose:

239 (1) A law enforcement agency shall prepare a report
 240 identifying each prescribed controlled substance listed in
 241 Schedule II, Schedule III, or Schedule IV of s. 893.03, Florida
 242 Statutes, which is found on or near the deceased or among the
 243 deceased's possessions. The report must identify the person who
 244 prescribed the controlled substance, if known or ascertainable.
 245 Thereafter, the law enforcement agency shall submit a copy of
 246 the report to the medical examiner.

247 (2) A medical examiner who is preparing a report pursuant
 248 to s. 406.11, Florida Statutes, shall include in the report
 249 information identifying each prescribed controlled substance
 250 listed in Schedule II, Schedule III, or Schedule IV of s.
 251 893.03, Florida Statutes, that was found in, on, or near the
 252 deceased or among the deceased's possessions.

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Section 7. This act shall take effect July 1, 2007.