

Bill No. CS for SB 270

Barcode 371292

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Saunders moved the following amendment:

Senate Amendment (with title amendment)

On page 2, line 2,

insert:

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.

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1 775.082, s. 775.083, or s. 775.084.

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

4 893.04 Pharmacist and practitioner.--

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

9 (a) Oral prescriptions must be promptly reduced to
10 writing by the pharmacist or recorded electronically if
11 permitted by federal law.

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

14 (c) There shall appear on the face of the prescription
15 or written record thereof for the controlled substance the
16 following information:

17 1. The full name and address of the person for whom,
18 or the owner of the animal for which, the controlled substance
19 is dispensed.

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

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

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

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

29 6. The initials of the pharmacist filling the
30 prescription and the date filled.

31 (d) The prescription shall be retained on file by the

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1 proprietor of the pharmacy in which it is filled for a period
2 of 2 years.

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

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

9 2. The date on which the prescription for such
10 controlled substance was filled.

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

13 4. The name of the prescribing practitioner.

14 5. The name of the patient for whom, or of the owner
15 and species of the animal for which, the controlled substance
16 is prescribed.

17 6. The directions for the use of the controlled
18 substance prescribed in the prescription.

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

22 (f) A prescription for a controlled substance listed
23 in Schedule II may be dispensed only upon a written
24 prescription of a practitioner, except that in an emergency
25 situation, as defined by regulation of the Department of
26 Health, such controlled substance may be dispensed upon oral
27 prescription but is limited to a 72-hour supply. ~~A No~~
28 prescription for a controlled substance listed in Schedule II
29 may not be refilled.

30 (g) ~~A No~~ prescription for a controlled substance
31 listed in Schedule ~~Schedules~~ III, Schedule IV, or Schedule V

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1 may not be filled or refilled more than five times within a
2 period of 6 months after the date on which the prescription
3 was written unless the prescription is renewed by a
4 practitioner.

5 (2)(a) A pharmacist may not dispense a controlled
6 substance listed in Schedule II, Schedule III, or Schedule IV
7 to any patient or patient's agent without first determining,
8 in the exercise of her or his professional judgment, that the
9 order is valid. The pharmacist may dispense the controlled
10 substance, in the exercise of her or his professional
11 judgment, when the pharmacist or pharmacist's agent has
12 obtained satisfactory patient information from the patient or
13 the patient's agent.

14 (b) Any pharmacist who dispenses by mail a controlled
15 substance listed in Schedule II, Schedule III, or Schedule IV
16 is exempt from the requirement to obtain suitable
17 identification for the prescription dispensed by mail if the
18 pharmacist has obtained the patient's identification through
19 the patient's prescription benefit plan.

20 (c) Any controlled substance listed in Schedule III or
21 Schedule IV may be dispensed by a pharmacist upon an oral
22 prescription if, before filling the prescription, the
23 pharmacist reduces it to writing or records the prescription
24 electronically if permitted by federal law. Such prescriptions
25 must contain the date of the oral authorization.

26 (d) Each written prescription prescribed by a
27 practitioner in this state for a controlled substance listed
28 in Schedule II, Schedule III, or Schedule IV must include both
29 a written and a numerical notation of the quantity on the face
30 of the prescription and a notation of the date, with the
31 abbreviated month written out on the face of the prescription.

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1 A pharmacist may, upon verification by the prescriber,
2 document any information required by this paragraph.

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

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

9 (3)(2) Notwithstanding ~~the provisions of~~ subsection
10 (1), a pharmacist may dispense a one-time emergency refill of
11 up to a 72-hour supply of the prescribed medication for any
12 medicinal drug other than a medicinal drug listed in Schedule
13 II, in compliance with the provisions of s. 465.0275.

14 (4)(3) The legal owner of any stock of controlled
15 substances in a pharmacy, upon discontinuance of dealing in
16 controlled substances, may sell said stock to a manufacturer,
17 wholesaler, or pharmacy. Such controlled substances may be
18 sold only upon an order form, when such an order form is
19 required for sale by the drug abuse laws of the United States
20 or this state, or regulations pursuant thereto.

21 Section 3. Section 408.0611, Florida Statutes, is
22 created to read:

23 408.0611 Electronic prescribing clearinghouse.--

24 (1) It is the intent of the Legislature to promote the
25 implementation of electronic prescribing by health care
26 practitioners, health care facilities, and pharmacies in order
27 to prevent prescription drug abuse, improve patient safety,
28 and reduce unnecessary prescriptions. To that end, it is the
29 intent of the Legislature to create a clearinghouse of
30 information on electronic prescribing to convey the process
31 and advantages of electronic prescribing; to provide

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1 information regarding the availability of electronic
 2 prescribing products, including no-cost or low-cost products;
 3 and to regularly convene stakeholders to assess and accelerate
 4 the implementation of electronic prescribing.

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

6 (a) "Electronic prescribing" means, at a minimum, the
 7 electronic review of the patient's medication history, the
 8 electronic generation of the patient's prescription, and the
 9 electronic transmission of the patient's prescription to a
 10 pharmacy.

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

13 (3) The agency shall work in collaboration with
 14 private-sector electronic prescribing initiatives and relevant
 15 stakeholders to create a clearinghouse of information on
 16 electronic prescribing for health care practitioners, health
 17 care facilities, and pharmacies. These stakeholders shall
 18 include organizations that represent health care
 19 practitioners; organizations that represent health care
 20 facilities; organizations that represent pharmacies;
 21 organizations that operate electronic prescribing networks;
 22 organizations that create electronic prescribing products; and
 23 regional health information organizations. Specifically, the
 24 agency shall, by October 1, 2007:

25 (a) Provide on its website:

26 1. Information regarding the process of electronic
 27 prescribing and the availability of electronic prescribing
 28 products, including no-cost or low-cost products;

29 2. Information regarding the advantages of electronic
 30 prescribing, including using medication history data to
 31 prevent drug interactions, prevent allergic reactions, and

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1 deter doctor and pharmacy shopping for controlled substances;

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

5 4. Links to state, federal, and private-sector
6 incentive programs for the implementation of electronic
7 prescribing.

8 (b) Convene quarterly meetings of the stakeholders to
9 assess and accelerate the implementation of electronic
10 prescribing.

11 (4) Pursuant to s. 408.061, the agency shall monitor
12 the implementation of electronic prescribing by health care
13 practitioners, health care facilities, and pharmacies. By
14 January 31 of each year, the agency shall report on the
15 progress of implementation of electronic prescribing to the
16 Governor and the Legislature. Information reported pursuant to
17 this subsection shall include federal and private-sector
18 electronic prescribing initiatives and, to the extent that
19 data is readily available from organizations that operate
20 electronic prescribing networks, the number of health care
21 practitioners using electronic prescribing and the number of
22 prescriptions electronically transmitted.

23 Section 4. Section 893.065, Florida Statutes, is
24 created to read:

25 893.065 Counterfeit-resistant prescription blanks for
26 controlled substances listed in Schedule II, Schedule III, or
27 Schedule IV.--The Department of Health shall develop and adopt
28 by rule the form and content for a counterfeit-resistant
29 prescription blank which may be used by practitioners for the
30 purpose of prescribing a controlled substance listed in
31 Schedule II, Schedule III, or Schedule IV. The Department of

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1 Health may require the prescription blanks to be printed on
 2 distinctive, watermarked paper and to bear the preprinted
 3 name, address, and category of professional licensure of the
 4 practitioner and that practitioner's federal registry number
 5 for controlled substances. The prescription blanks may not be
 6 transferred.

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

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

13 (1) A law enforcement agency shall prepare a report
 14 identifying each prescribed controlled substance listed in
 15 Schedule II, Schedule III, or Schedule IV of s. 893.03,
 16 Florida Statutes, which is found on or near the deceased or
 17 among the deceased's possessions. The report must identify the
 18 person who prescribed the controlled substance, if known or
 19 ascertainable. Thereafter, the law enforcement agency shall
 20 submit a copy of the report to the medical examiner.

21 (2) A medical examiner who is preparing a report
 22 pursuant to s. 406.11, Florida Statutes, shall include in the
 23 report information identifying each prescribed controlled
 24 substance listed in Schedule II, Schedule III, or Schedule IV
 25 of s. 893.03, Florida Statutes, that was found in, on, or near
 26 the deceased or among the deceased's possessions.

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 28 (Redesignate subsequent sections.)

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 2, after the semicolon,

4

5 insert:

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

7 sale, manufacture, alteration, delivery,

8 uttering, or possession of

9 counterfeit-resistant prescription blanks for

10 controlled substances with the intent to injure

11 or defraud; providing penalties; amending s.

12 893.04, F.S.; providing additional requirements

13 for the dispensing of a controlled substance

14 listed in Schedule II, Schedule III, or

15 Schedule IV; specifying circumstances under

16 which a pharmacist who dispenses controlled

17 substances by mail is exempt from certain

18 requirements governing patient identification;

19 providing requirements and limitations for

20 dispensing controlled substances upon an oral

21 prescription; creating s. 408.0611, F.S.;

22 providing legislative intent; providing

23 definitions; requiring the Agency for Health

24 Care Administration to create a clearinghouse

25 of information on electronic prescribing;

26 requiring the agency to monitor and report on

27 the implementation of electronic prescribing;

28 creating s. 893.065, F.S.; requiring the

29 department to develop and adopt by rule the

30 form and content for a counterfeit-proof

31 prescription blank for voluntary use by

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1 physicians in prescribing a controlled
2 substance listed in Schedule II, Schedule III,
3 or Schedule IV; providing that penalties shall
4 become effective only upon adoption of rules;
5 prescribing duties of law enforcement agencies
6 and medical examiners when a person dies of an
7 apparent drug overdose;

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