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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/15/2008	.	
	.	
	.	

1 The Committee on Health Regulation (Aronberg) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

7 Section 1. This act may be cited as the "Prevention First
 8 Act."

9 Section 2. Treatment for survivors of rape.--

10 (1) DEFINITIONS.--As used in this section, the term:

11 (a) "Agency" means the Agency for Health Care
 12 Administration.

13 (b) "Care to a rape survivor" means medical examinations,
 14 procedures, and services provided to a rape survivor.

15 (c) "Department" means the Department of Health.

16 (d) "Emergency contraception" means one or more
 17 prescription drugs used separately or in combination to be



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18 administered to or self-administered by a patient to prevent
19 pregnancy within a medically recommended amount of time after
20 sexual intercourse and dispensed for that purpose, in accordance
21 with professional standards of practice, and determined to be
22 safe by the United States Food and Drug Administration.

23 (e) "Health care facility" means a facility licensed under
24 chapter 395, Florida Statutes.

25 (f) "Incest" means a sexual offense described in s. 826.04,
26 Florida Statutes.

27 (g) "Medically and factually accurate" means information
28 that is supported by the weight of research conducted in
29 compliance with accepted scientific methods and that is
30 recognized as accurate and objective by leading professional
31 organizations and agencies having relevant expertise in the
32 field.

33 (h) "Rape" means sexual battery as described in ss. 794.011
34 and 827.071, Florida Statutes.

35 (i) "Rape survivor" means a person who alleges or is
36 alleged to have been raped or who is the victim of alleged incest
37 and because of the alleged offense seeks treatment as a patient.

38 (2) DUTIES OF LICENSED PRACTITIONERS AND FACILITIES.--

39 (a) A health care practitioner licensed under chapter 458,
40 chapter 459, or chapter 464, Florida Statutes, or a health care
41 facility licensed under chapter 395, Florida Statutes, providing
42 care to a rape survivor shall:

43 1. Provide each female rape survivor with medically and
44 factually accurate, clear, and concise information concerning
45 emergency contraception, including its indications and
46 contraindications and the risks associated with its use.



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47 2. Inform each female rape survivor of her medical option
48 to receive emergency contraception.

49 (b) If emergency contraception is requested, the health
50 care practitioner or health care facility shall immediately
51 provide the female rape survivor with the complete regimen of
52 emergency contraception, unless contraindicated as determined by
53 a pregnancy test approved by the United States Food and Drug
54 Administration.

55 (c) The Agency for Health Care Administration, with input
56 from the Florida Hospital Association and the Florida Council
57 Against Sexual Violence, shall adopt a protocol to implement the
58 requirements of this subsection.

59 (3) PATIENT INFORMATION.--

60 (a) The department shall:

61 1. Develop, prepare, and produce informational materials
62 relating to emergency contraception for the prevention of
63 pregnancy for distribution to and use in all health care
64 facilities in the state that provide care to rape survivors, in
65 quantities sufficient to comply with the requirements of this
66 section, to the extent that funds are available.

67 2. Develop, prepare, and post information on the
68 department's Internet website relating to the duty of licensed
69 health care practitioners and health care facilities to provide
70 emergency contraception to female rape survivors.

71 (b) Information provided to female rape survivors or female
72 victims of sexual assault must:

73 1. Be medically and factually accurate;

74 2. Be clearly written, readily comprehensible, and
75 culturally appropriate as determined by the department, in

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76 collaboration with community sexual assault programs and other
77 relevant stakeholders; and

78 3. Explain the nature of emergency contraception, including
79 its use, safety, efficacy, and availability.

80 (4) ENFORCEMENT AND PENALTIES.--

81 (a) In addition to any other remedies provided by law, the
82 agency shall respond to complaints, using all available
83 investigative tools, and shall periodically review whether a
84 health care facility is in compliance with this section. If the
85 agency finds that a health care facility is not in compliance
86 with this section, the agency shall:

87 1. Impose a fine of \$5,000 per woman who is:

88 a. Denied medically and factually accurate and objective
89 information about emergency contraception;

90 b. Not informed of her medical option to receive emergency
91 contraception; or

92 c. Not provided the complete regimen of emergency
93 contraception, if emergency contraception is requested.

94 2. Impose a fine of \$5,000 for failure to comply with this
95 section. For every 30 days that a health care facility is not in
96 compliance with this section, an additional fine of \$5,000 shall
97 be imposed.

98 (b) The agency shall adopt rules as necessary to administer
99 the provisions of this section.

100 Section 3. Subsection (9) is added to section 390.011,
101 Florida Statutes, to read:

102 390.011 Definitions.--As used in this chapter, the term:

103 (9) "Contraception" means any drug or device approved by
104 the United States Food and Drug Administration to prevent
105 pregnancy.

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106 Section 4. Section 390.027, Florida Statutes, is created to
107 read:

108 390.027 Access to contraception.--The provision of
109 contraception is not subject to or governed by this chapter.

110 Section 5. Section 465.190, Florida Statutes, is created to
111 read:

112 465.190 Patient contraceptive protection.--

113 (1) DEFINITIONS.--As used in this section, the term:

114 (a) "Contraception" or "contraceptive" means any
115 prescription drug or over-the-counter oral contraceptive approved
116 by the United States Food and Drug Administration to prevent
117 pregnancy.

118 (b) "Employee" means a person hired, by contract or any
119 other form of agreement, by a pharmacy.

120 (c) "Product" means a drug or device approved by the United
121 States Food and Drug Administration.

122 (d) "Professional clinical judgment" means the use of
123 professional knowledge and skills to form a clinical judgment in
124 accordance with prevailing medical standards.

125 (e) "Without delay," with respect to a pharmacy dispensing
126 a prescription for contraception, means within the pharmacy's
127 customary timeframe for dispensing the prescription for other
128 products.

129 (2) DUTIES OF LICENSED PHARMACIES.--

130 (a) If a patient requests a contraceptive that is in stock,
131 the pharmacy shall ensure that the contraceptive is provided to
132 the patient or patient representative without delay.

133 (b) A pharmacy shall ensure that its employees do not:

134 1. Intimidate, threaten, or harass a patient in the
135 delivery of services relating to a request for contraception;



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136 2. Interfere with or obstruct the delivery of services
137 relating to a request for contraception;

138 3. Intentionally misrepresent or deceive a patient about
139 the availability of contraception or its mechanism of action;

140 4. Breach medical confidentiality with respect to a request
141 for contraception or threaten to breach such confidentiality; or

142 5. Refuse to return a valid, lawful prescription for
143 contraception upon a patient's or patient representative's
144 request.

145 (c) This section does not prohibit a pharmacy from refusing
146 to provide a contraceptive to a patient if:

147 1. It is unlawful to dispense the contraceptive to the
148 patient without a valid, lawful prescription and such
149 prescription is not presented;

150 2. The patient or patient representative is unable to pay
151 for the contraceptive; or

152 3. The employee of the pharmacy refuses to provide the
153 contraceptive on the basis of a professional clinical judgment.

154 (e) This section does not prevent a pharmacist or other
155 person from refusing to furnish any in-stock contraceptive for
156 religious reasons so long as the pharmacy reasonably accommodates
157 the patient or patient representative without delay and in
158 compliance with this section.

159 (f) This section does not alter any standard established
160 under the Florida Civil Rights Act of 1992.

161 (g) Any person who believes that a violation of this
162 section has occurred may file a complaint with the Department of
163 Health.

164 (h) If the Attorney General has reasonable cause to believe
165 that any person or group of persons is being, has been, or may be



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166 injured by conduct constituting a violation of this section, the
 167 Attorney General may bring a civil action in the name of the
 168 state, as parens patriae on behalf of natural persons residing in
 169 the state.

170 Section 6. Paragraph (t) is added to subsection (1) of
 171 section 465.016, Florida Statutes, to read:

172 465.016 Disciplinary actions.--

173 (1) The following acts constitute grounds for denial of a
 174 license or disciplinary action, as specified in s. 456.072(2):

175 (t) Violating the provisions of s. 465.190.

176 Section 7. Paragraph (f) is added to subsection (1) of
 177 section 465.023, Florida Statutes, to read:

178 465.023 Pharmacy permittee; disciplinary action.--

179 (1) The department or the board may revoke or suspend the
 180 permit of any pharmacy permittee, and may fine, place on
 181 probation, or otherwise discipline any pharmacy permittee who
 182 has:

183 (f) Violated the provisions of s. 465.190.

184 Section 8. If any provision of this act or the application
 185 thereof to any person or circumstance is held invalid, the
 186 invalidity does not affect other provisions or applications of
 187 the act which can be given effect without the invalid provision
 188 or application, and to this end the provisions of this act are
 189 severable.

190 Section 9. This act shall take effect upon becoming a law.

191
 192 ===== T I T L E A M E N D M E N T =====

193 And the title is amended as follows:

194 Delete everything before the enacting clause
 195 and insert:



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196 A bill to be entitled
197 An act relating to reproductive health services and family
198 planning; creating the "Prevention First Act"; providing
199 definitions; providing duties of licensed health care
200 practitioners and facilities relating to the treatment of
201 rape survivors; requiring the Department of Health to
202 provide certain information; requiring the Agency for
203 Health Care Administration to provide for enforcement and
204 impose penalties; requiring the agency to adopt rules;
205 amending s. 390.011, F.S.; defining the term
206 "contraception"; creating s. 390.027, F.S.; specifying
207 that the provision of contraception is not subject to ch.
208 390, F.S., relating to the termination of pregnancies;
209 creating s. 465.190, F.S.; providing definitions;
210 requiring licensed pharmacies to dispense certain forms of
211 contraception without delay; specifying conditions under
212 which a pharmacy may refuse to provide a contraceptive;
213 providing for a person to file a complaint with the
214 Department of Health if he or she believes that a
215 violation of such provisions has occurred; providing for
216 the Attorney General to bring a civil action; amending ss.
217 465.016 and 465.023, F.S.; providing that a violation of
218 requirements for dispensing contraception constitutes
219 grounds for the Department of Health or the Board of
220 Pharmacy to impose disciplinary action or suspend or
221 revoke a pharmacist's license or permit; providing for
222 severability; providing an effective date.

224 WHEREAS, although the Centers for Disease Control and
225 Prevention included family planning in its published list of Ten

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226 Great Public Health Achievements in the 20th Century, the United
227 States still has one of the highest rates of unintended
228 pregnancies among industrialized nations, and

229 WHEREAS, the Legislature finds that family planning is basic
230 health care for women and that access to contraception helps
231 women prevent unintended pregnancy and control the timing and
232 spacing of planned births, and

233 WHEREAS, 46.3 percent of pregnancies among women in this
234 state are unintended according to the Florida Pregnancy Risk
235 Assessment Monitoring System initiated by the United States
236 Centers for Disease Control and Prevention and the Florida
237 Department of Health, and

238 WHEREAS, currently more than 1.7 million women in Florida
239 are in need of contraceptive services and supplies, and

240 WHEREAS, the Legislature finds that the victimization of
241 women through rape is compounded by the possibility that the rape
242 survivors may suffer unintended pregnancies, and half of such
243 pregnancies end in abortion, and

244 WHEREAS, women rely on prescription contraceptives for a
245 range of medical purposes in addition to birth control, such as
246 regulation of menstrual cycles and the treatment of
247 endometriosis, and

248 WHEREAS, the Legislature further finds that providing access
249 to family planning information, services, and birth control will
250 prevent abortions and unintended pregnancies, thereby
251 significantly reducing the number of women and teens who need
252 medical assistance, Medicaid, Kidcare, and other social services,
253 and

254 WHEREAS, the Legislature recognizes that the most recent
255 study of women in need of family planning services by the Florida



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256 | State University Center for Prevention and Early Intervention
257 | Policy found that only 26 percent of women in this state who are
258 | in need of such services are currently receiving them, and
259 | WHEREAS, according to the Department of Health's Family
260 | Planning Program, for every dollar spent on family planning
261 | services, up to \$24 is saved as a result of averting expenditures
262 | for public programs that support women who have unintended
263 | pregnancies and their infants, NOW, THEREFORE,