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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2009	.	
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The Committee on Health and Human Services Appropriations
(Gaetz) recommended the following:

Senate Amendment (with title amendment)

Between lines 1509 and 1510
insert:

Section 27. The Pharmacy and Therapeutic Advisory Council.-

(1) The Pharmacy and Therapeutic Advisory Council is
created within the Executive Office of the Governor to serve in
an advisory capacity to the Department of Health and other
governmental agencies. The council may not interfere with
existing mandated Medicaid services and may not develop or
implement new ones. Specifically, the council may not interfere



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12 with the work of the Agency for Health Care Administration as it
13 complies with federal and state statutory obligations to develop
14 a preferred drug list, to negotiate rebate agreements for
15 medications included in the preferred drug list, and to protect
16 the confidentiality of rebate agreements. The council may not
17 interfere with the Medicaid Pharmacy and Therapeutics Committee
18 or the Drug Utilization Review Board, which oversee clinical
19 activities within the Bureau of Pharmacy Services if such
20 interference would violate any federal or state statutory
21 obligations.

22 (2) The Pharmacy and Therapeutic Advisory Council shall use
23 Medicaid processes within the existing Medicaid structure of the
24 Agency for Health Care Administration as a guide for assisting
25 state agencies in:

26 (a) Developing an unbiased clinical perspective on drug
27 evaluations and utilization protocols that are relevant to
28 patient care provided through programs administered by state
29 agencies.

30 (b) Developing drug-utilization-review processes that are
31 relevant to the agencies and those receiving care through
32 programs administered by the agencies.

33 (c) Building a formulary structure that enforces formulary
34 compliance or adherence within each agency.

35 (d) Performing pharmacoeconomic analyses on formulary
36 management so that the state maximizes the cost-effectiveness of
37 its pharmaceutical purchasing.

38 (e) Reviewing new and existing therapies using criteria
39 established for efficacy, safety, and quality in order to
40 maximize cost-effective purchasing.



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41 (f) Reviewing state agency proposals to maximize the cost-
42 effectiveness of pharmaceutical purchasing in compliance with s.
43 381.0203.

44 (3) The council shall verify the cost-effectiveness and
45 clinical efficacy of any state contracts under s. 381.0203(1),
46 Florida Statutes, no less than once every 2 years.

47 (4) The members of the council and the chair shall be
48 appointed by the Governor to 4-year staggered terms or until
49 their successors are appointed. Members may be appointed to more
50 than one term. The Governor shall fill any vacancies for the
51 remainder of the unexpired term in the same manner as the
52 original appointment.

53 (5) The council shall include voting and nonvoting members,
54 and the chair, who is a voting member, must be a pharmacist
55 employed by a state agency.

56 (a) The voting members shall represent:

57 1. The Agency for Health Care Administration.

58 2. The Agency for Persons with Disabilities.

59 3. The Department of Children and Family Services.

60 4. The Department of Corrections.

61 5. The Department of Elderly Affairs.

62 6. The Department of Health.

63 7. The Department of Juvenile Justice.

64 8. The Bureau of Pharmacy Services within the Agency for
65 Health Care Administration, which shall be represented by the
66 bureau chief.

67 9. The Bureau of Statewide Pharmaceutical Services within
68 the Department of Health, which shall be represented by the
69 bureau chief.



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70 (b) The nonvoting members shall be:

71 1. A representative from the Agency for Health Care
72 Administration's drug contracting program.

73 2. The contracting officer for the Department of Health's
74 drug procurement program.

75 3. A clinical pharmacy program manager from the Agency for
76 Health Care Administration.

77 4. The chair of the Department of Health's Pharmacy and
78 Therapeutics Committee.

79 5. The general counsel for the Agency for Health Care
80 Administration or his or her designee.

81 6. The general counsel for a state agency in the executive
82 branch of state government, or his or her designee.

83 7. A representative from the Executive Office of the
84 Governor.

85 8. The statewide pharmacy director of the Department of
86 Corrections' Office of Health Services.

87 (6) Members of the council shall consist of at least one
88 physician licensed under chapter 458 or chapter 459, Florida
89 Statutes, at least one pharmacist licensed under chapter 465,
90 Florida Statutes, and at least one registered nurse licensed
91 under chapter 464, Florida Statutes. Each member designated in
92 this subsection must have an active license in his or her
93 profession and may not have been the subject of any agency
94 disciplinary action.

95 (7) Members, who must be residents of this state, shall be
96 selected on the basis of specialty, board certification, prior
97 pharmacy and therapeutic experience, experience treating medical
98 assistance recipients, ability to represent a broad base of



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99 constituents, and number of years of practice. Members must not
100 have any conflicts of interest due to their service on the
101 council.

102 (8) The council may request the participation of additional
103 subject-matter experts to address specific drug, therapeutic, or
104 drug-procurement issues under review by the council.

105 (9) A majority of the members of the council constitutes a
106 quorum, and an affirmative vote of a majority of the voting
107 members is necessary to take action.

108 (10) The council shall meet quarterly or at the call of the
109 chair.

110 (11) The council shall be staffed by the chair's department
111 or agency.

112 (12) The council members shall serve without compensation,
113 but are entitled to reimbursement for travel and per diem
114 expenses incurred in the performance of their duties in
115 accordance with s. 112.061, Florida Statutes.

116 Section 28. Subsection (1) and paragraph (a) of subsection
117 (2) of section 381.0203, Florida Statutes, are amended to read:

118 381.0203 Pharmacy services.—

119 (1) The department must ~~may~~ contract on a statewide basis
120 for the purchase of drugs, as defined in s. 499.003, to be used
121 by state agencies and political subdivisions, and may adopt
122 rules to administer this section. Effective January 1, 2010, all
123 state agencies, except the Agency for Health Care
124 Administration, the Department of Veterans' Affairs, and the
125 Department of Management Services, must purchase drugs through
126 the statewide contract unless:

127 (a) The Pharmacy and Therapeutic Advisory Council approves



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128 a more cost-effective purchasing plan; or

129 (b) The drugs required are not available through the
130 statewide purchasing contract.

131 (2) The department must ~~may~~ establish and maintain a
132 pharmacy services program that includes, ~~including,~~ but is not
133 limited to:

134 (a) A central pharmacy to support pharmaceutical services
135 provided by the county health departments, including
136 pharmaceutical repackaging, dispensing, and the purchase and
137 distribution of immunizations and other pharmaceuticals. Such
138 services shall be provided to other state agencies and political
139 subdivisions of the state upon written agreement. Cost savings
140 realized by the state through utilization of the central
141 pharmacy may be used by the department to offset additional
142 costs.

143 Section 29. Paragraph (g) is added to subsection (53) of
144 section 499.003, Florida Statutes, to read:

145 499.003 Definitions of terms used in this part.—As used in
146 this part, the term:

147 (53) "Wholesale distribution" means distribution of
148 prescription drugs to persons other than a consumer or patient,
149 but does not include:

150 (g) The sale, purchase, trade, or transfer of a
151 prescription drug among agencies and health care entities of the
152 state to complete the dispensing of the prescription drug to a
153 patient under the care of a state agency or health care entity,
154 or to a patient for whom the state is responsible for providing
155 or arranging health care services. The agency or health care
156 entity that received the prescription drug on behalf of the



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157 patient is deemed the patient's agent under s. 465.003(6).

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

160 And the title is amended as follows:

161 Delete everything before the enacting clause

162 and insert:

163 A bill to be entitled

164 An act relating to health care; amending s. 154.503,
165 F.S.; conforming a cross-reference; repealing s.
166 381.0053, F.S., relating to a comprehensive nutrition
167 program; repealing s. 381.0054, F.S., relating to
168 healthy lifestyles promotion; repealing ss. 381.732,
169 381.733, and 381.734, F.S., relating to the Healthy
170 Communities, Healthy People Act; transferring,
171 renumbering, and amending s. 381.84, F.S., relating to
172 the Comprehensive Statewide Tobacco Education and Use
173 Prevention Program; revising definitions; revising
174 program components; requiring program components to
175 include efforts to educate youth and their parents
176 about tobacco use; requiring a youth-directed focus in
177 each program component; requiring the Tobacco
178 Education and Use Prevention Advisory Council to
179 adhere to state ethics laws; providing that meetings
180 of the council are subject to public-records and
181 public-meetings requirements; revising the duties of
182 the council; deleting a provision that prohibits a
183 member of the council from participating in a
184 discussion or decision with respect to a research
185 proposal by a firm, entity, or agency with which the



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186 member is associated as a member of the governing body
187 or as an employee or with which the member has entered
188 into a contractual arrangement; revising the
189 submission date of an annual report; deleting an
190 expired provision relating to rulemaking authority of
191 the department; transferring and renumbering s.
192 381.91, F.S., relating to the Jessie Trice Cancer
193 Prevention Program; transferring, renumbering, and
194 amending s. 381.911, F.S., relating to the Prostate
195 Cancer Awareness Program; revising the criteria for
196 members of the prostate cancer advisory committee;
197 repealing s. 381.912, F.S., relating to the Cervical
198 Cancer Elimination Task Force; transferring and
199 renumbering s. 381.92, F.S., relating to the Florida
200 Cancer Council; transferring and renumbering s.
201 381.921, F.S., relating to the mission and duties of
202 the Florida Cancer Council; amending s. 381.922, F.S.;
203 conforming cross-references; transferring and
204 renumbering s. 381.93, F.S., relating to a breast and
205 cervical cancer early detection program; transferring
206 and renumbering s. 381.931, F.S., relating to an
207 annual report on Medicaid expenditures; renaming ch.
208 385, F.S., as the "Healthy and Fit Florida Act";
209 amending s. 385.101, F.S.; renaming the "Chronic
210 Diseases Act" as the "Healthy and Fit Florida Act";
211 amending s. 385.102, F.S.; revising legislative
212 intent; creating s. 385.1021, F.S.; providing
213 definitions; creating s. 385.1022, F.S.; requiring the
214 Department of Health to support public health programs



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215 to reduce the incidence of mortality and morbidity
216 from chronic diseases; creating s. 385.1023, F.S.;
217 requiring the department to create state-level
218 programs that address the risk factors of certain
219 chronic diseases; providing required activities of the
220 state-level programs; amending s. 385.103, F.S.;
221 providing for community-level programs for the
222 prevention of chronic diseases; revising definitions;
223 requiring the department to develop and implement a
224 community-based chronic disease prevention and health
225 promotion program; providing the purpose of the
226 program; providing requirements for the program;
227 creating s. 385.105, F.S.; requiring the department to
228 develop programs to increase physical fitness, to work
229 with school districts, to develop partnerships that
230 allow the public to access recreational facilities and
231 public land areas suitable for physical activity, to
232 work with the Executive Office of the Governor and
233 Volunteer Florida, Inc., to promote school
234 initiatives, and to collaborate with the Department of
235 Education in recognizing nationally accepted best
236 practices for improving physical education in schools;
237 requiring the Department of Health to promote healthy
238 lifestyles to reduce obesity; requiring the department
239 to promote optimal nutritional status in all stages of
240 people's lives, personal responsibility to prevent
241 chronic disease or slow its progression, and regular
242 health visits during a person's life span; authorizing
243 state agencies to conduct employee wellness programs;



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244 requiring the department to serve as a model to
245 develop and implement employee wellness programs;
246 requiring the department to assist state agencies to
247 develop the employee wellness programs; providing
248 equal access to the programs by agency employees;
249 requiring the department to coordinate efforts with
250 the Department of Management Services and other state
251 agencies; authorizing each state agency to establish
252 an employee wellness work group to design the wellness
253 program; requiring the department to provide
254 requirements for participation fees, collaborations
255 with businesses, and procurement of equipment and
256 incentives; amending s. 385.202, F.S.; requiring
257 facilities, laboratories, and practitioners to report
258 information; authorizing the department to adopt rules
259 regarding reporting requirements for the cancer
260 registry; providing immunity from liability for
261 facilities and practitioners reporting certain
262 information; requiring the department to adopt rules
263 regarding the establishment and operation of a
264 statewide cancer registry program; requiring the
265 department or contractual designee operating the
266 statewide cancer registry program to use or publish
267 material only for the purpose of public health
268 surveillance and advancing medical research or medical
269 education in the interest of reducing morbidity or
270 mortality; authorizing the department to exchange
271 personal data with any agency or contractual designee
272 for the purpose of public health surveillance and



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273 medical or scientific research under certain
274 circumstances; clarifying that the department may
275 adopt rules regarding the classifications of
276 facilities related to reports made to the cancer
277 registry; requiring each facility and practitioner
278 that reports cancer cases to the department to make
279 their records available for onsite review; amending s.
280 385.203, F.S.; increasing the size of the Diabetes
281 Advisory Council to include one representative of the
282 Florida Academy of Family Physicians; amending s.
283 385.206, F.S.; renaming the "hematology-oncology care
284 center program" as the "Pediatric Hematology-Oncology
285 Center Program"; revising definitions; authorizing the
286 department to designate centers and provide funding to
287 maintain programs for the care of patients with
288 hematologic and oncologic disorders; clarifying
289 provisions related to grant-funding agreements and
290 grant disbursements; revising the department's
291 requirement to evaluate services rendered by the
292 centers; requiring data from the centers and other
293 sources relating to pediatric cancer to be available
294 to the department for program planning and quality
295 assurance initiatives; amending s. 385.207, F.S.;
296 clarifying provisions that require the department to
297 collect information regarding the number of clients
298 served, the outcomes reached, the expense incurred,
299 and fees collected by providers of epilepsy services;
300 deleting the provision that requires the department to
301 limit administrative expenses from the Epilepsy



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302 Services Trust Fund to a certain percentage of annual
303 receipts; amending s. 385.210, F.S.; revising
304 legislative findings regarding the economic costs of
305 treating arthritis and its complications; authorizing
306 the State Surgeon General to seek any federal waivers
307 that may be necessary to maximize funds from the
308 Federal Government to implement the Arthritis
309 Prevention and Education Program; creating s. 385.301,
310 F.S.; authorizing the department to adopt rules to
311 administer the act; amending s. 409.904, F.S.;
312 conforming a cross-reference; creating the Pharmacy
313 and Therapeutic Advisory Council within the Executive
314 Office of the Governor; providing duties of the
315 council; providing for the appointment and
316 qualification of members; providing for the use of
317 subject-matter experts when necessary; providing
318 requirements for voting and a quorum; providing for
319 quarterly meetings of the council; providing for
320 staffing; providing for reimbursement of per diem and
321 travel expenses for members of the council; amending
322 s. 381.0203, F.S.; requiring certain state agencies to
323 purchase drugs through the statewide purchasing
324 contract administered by the Department of Health;
325 providing an exception; requiring the department to
326 establish and maintain certain pharmacy services
327 program; amending s. 499.003, F.S.; excluding from the
328 definition of "wholesale distribution" certain
329 activities of state agencies; providing an effective
330 date.