



681994

HR.HR.03558

Proposed Committee Substitute by the Committee on Health  
Regulation

A bill to be entitled

An act relating to state pharmacy services; creating the Pharmacy and Therapeutic Advisory Council within the Executive Office of the Governor; providing duties of the council; providing for the appointment and qualification of members; providing for the use of subject-matter experts when necessary; providing requirements for voting and a quorum; providing for quarterly meetings of the council; providing for staffing; providing for reimbursement of per diem and travel expenses for members of the council; amending s. 381.0203, F.S.; requiring certain state agencies to purchase drugs through the statewide purchasing contract administered by the Department of Health; providing an exception; amending s. 499.003, F.S.; excluding from the definition of "wholesale distribution" certain activities of state agencies; providing an effective date.

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

Section 1. 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



681994

HR.HR.03558

28 implement new ones. Specifically, the council may not interfere  
29 with the work of the Agency for Health Care Administration as it  
30 complies with federal and state statutory obligations to develop  
31 a preferred drug list, to negotiate rebate agreements for  
32 medications included in the preferred drug list, and to protect  
33 the confidentiality of rebate agreements. The council may not  
34 interfere with the Medicaid Pharmacy and Therapeutics Committee  
35 or the Drug Utilization Review Board, which oversee clinical  
36 activities within the Medicaid Bureau of Pharmacy Services if  
37 such interference would violate any federal or state statutory  
38 obligations.

39 (2) The Pharmacy and Therapeutic Advisory Council shall use  
40 Medicaid processes within the existing Medicaid structure of the  
41 Agency for Health Care Administration as a guide for assisting  
42 state agencies in:

43 (a) Developing an unbiased clinical perspective on drug  
44 evaluations and utilization protocols that are relevant to  
45 patient care provided through programs administered by state  
46 agencies.

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

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

52 (d) Performing pharmacoeconomic analyses on formulary  
53 management so that the state maximizes the cost-effectiveness of  
54 its pharmaceutical purchasing.

55 (e) Reviewing new and existing therapies using criteria  
56 established for efficacy, safety, and quality in order to



681994

HR.HR.03558

57 maximize cost-effective purchasing.

58 (e) Reviewing state agency proposals to maximize the cost-  
59 effectiveness of pharmaceutical purchasing in compliance with s.  
60 381.0203.

61 (3) The members of the council and the chair shall be  
62 appointed by the Governor to 4-year staggered terms or until  
63 their successors are appointed. Members may be appointed to more  
64 than one term. The Governor shall fill any vacancies for the  
65 remainder of the unexpired term in the same manner as the  
66 original appointment.

67 (4) The council shall include voting and nonvoting members,  
68 and the chair, who is a voting member, must be a pharmacist  
69 employed by a state agency.

70 (a) The voting members shall represent:

71 1. The Agency for Health Care Administration.

72 2. The Agency for Persons with Disabilities.

73 3. The Department of Children and Family Services.

74 4. The Department of Corrections.

75 5. The Department of Elderly Affairs.

76 6. The Department of Health.

77 7. The Department of Juvenile Justice.

78 8. The Bureau of Medicaid Pharmacy Services within the  
79 Agency for Health Care Administration, which shall be  
80 represented by the bureau chief.

81 9. The Bureau of Statewide Pharmaceutical Services within  
82 the Department of Health, which shall be represented by the  
83 bureau chief.

84 (b) The nonvoting members shall be:

85 1. A representative from the Agency for Health Care



681994

HR.HR.03558

86 Administration's drug contracting program.

87 2. The contracting officer for the Department of Health's  
88 drug procurement program.

89 3. A clinical pharmacy program manager from the Agency for  
90 Health Care Administration.

91 4. The chair of the Department of Health's Pharmacy and  
92 Therapeutics Committee.

93 5. The general counsel for the Agency for Health Care  
94 Administration or his or her designee.

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

97 7. A representative from the Executive Office of the  
98 Governor.

99 8. The statewide pharmacy director of the Department of  
100 Corrections' Office of Health Services.

101 (5) Members of the council shall consist of at least one  
102 physician licensed under chapters 458 or 459, Florida Statutes,  
103 at least one pharmacist licensed under chapter 465, Florida  
104 Statutes, and at least one registered nurse licensed under  
105 chapter 464, Florida Statutes. Each member designated in this  
106 subsection must have an active license in his or her profession  
107 and may not have been the subject of any agency disciplinary  
108 action.

109 (6) Members, who must be residents of this state, shall be  
110 selected on the basis of specialty, board certification, prior  
111 pharmacy and therapeutic experience, experience treating medical  
112 assistance recipients, ability to represent a broad base of  
113 constituents, and number of years of practice. Members must not  
114 have any conflicts of interest due to their service on the



681994

HR.HR.03558

115 council.

116 (7) The council may request the participation of additional  
117 subject-matter experts to address specific drug, therapeutic, or  
118 drug-procurement issues under review by the council.

119 (8) A majority of the members of the council constitutes a  
120 quorum, and an affirmative vote of a majority of the voting  
121 members is necessary to take action.

122 (9) The council shall meet quarterly or at the call of the  
123 chair.

124 (10) The council shall be staffed by the chair's department  
125 or agency.

126 (11) The council members shall serve without compensation,  
127 but are entitled to reimbursement for travel and per diem  
128 expenses incurred in the performance of their duties in  
129 accordance with s. 112.061, Florida Statutes.

130 Section 2. Subsection (1) and paragraph (a) of subsection  
131 (2) of section 381.0203, Florida Statutes, are amended to read:  
132 381.0203 Pharmacy services.—

133 (1) The department must ~~may~~ contract on a statewide basis  
134 for the purchase of drugs, as defined in s. 499.003, to be used  
135 by state agencies and political subdivisions, and may adopt  
136 rules to administer this section. Effective January 1, 2010, all  
137 state agencies, except the Agency for Health Care  
138 Administration, the Department of Veterans Affairs, and the  
139 Department of Management Services, must purchase drugs through  
140 the statewide contract unless:

141 (a) The Pharmacy and Therapeutic Advisory Council approves  
142 a more cost-effective purchasing plan; or

143 (b) The drugs required are not available through the



681994

HR.HR.03558

144 statewide purchasing contract.

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

148 (a) A central pharmacy to support pharmaceutical services  
149 provided by the county health departments, including  
150 pharmaceutical repackaging, dispensing, and the purchase and  
151 distribution of immunizations and other pharmaceuticals. Such  
152 services shall be provided to other state agencies and political  
153 subdivisions of the state upon written agreement. Cost savings  
154 realized by the state through utilization of the central  
155 pharmacy may be used by the department to offset additional  
156 costs.

157 Section 3. Paragraph (g) is added to subsection (53) of  
158 section 499.003, Florida Statutes, to read:

159 499.003 Definitions of terms used in this part.—As used in  
160 this part, the term:

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

164 (g) The sale, purchase, trade, or transfer of a  
165 prescription drug among agencies and health care entities of the  
166 state to complete the dispensing of the prescription drug to a  
167 patient under the care of a state agency or health care entity,  
168 or to a patient for whom the state is responsible for providing  
169 or arranging health care services. The agency or health care  
170 entity that received the prescription drug on behalf of the  
171 patient is deemed the patient's agent under s. 465.003(6).

172 Section 4. This act shall take effect July 1, 2009.