

By the Committee on Health Regulation; and Senators Gaetz,
Peaden, and Rich

588-04075-09

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1 A bill to be entitled

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

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

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22 Section 1. The Pharmacy and Therapeutic Advisory Council.-

23 (1) The Pharmacy and Therapeutic Advisory Council is
24 created within the Executive Office of the Governor to serve in
25 an advisory capacity to the Department of Health and other
26 governmental agencies. The council may not interfere with
27 existing mandated Medicaid services and may not develop or
28 implement new ones. Specifically, the council may not interfere
29 with the work of the Agency for Health Care Administration as it

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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
57 maximize cost-effective purchasing.

58 (f) Reviewing state agency proposals to maximize the cost-

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59 effectiveness of pharmaceutical purchasing in compliance with s.
60 381.0203.

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

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

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

73 (a) The voting members shall represent:

74 1. The Agency for Health Care Administration.

75 2. The Agency for Persons with Disabilities.

76 3. The Department of Children and Family Services.

77 4. The Department of Corrections.

78 5. The Department of Elderly Affairs.

79 6. The Department of Health.

80 7. The Department of Juvenile Justice.

81 8. The Bureau of Medicaid Pharmacy Services within the
82 Agency for Health Care Administration, which shall be
83 represented by the bureau chief.

84 9. The Bureau of Statewide Pharmaceutical Services within
85 the Department of Health, which shall be represented by the
86 bureau chief.

87 (b) The nonvoting members shall be:

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

90 2. The contracting officer for the Department of Health's
91 drug procurement program.

92 3. A clinical pharmacy program manager from the Agency for
93 Health Care Administration.

94 4. The chair of the Department of Health's Pharmacy and
95 Therapeutics Committee.

96 5. The general counsel for the Agency for Health Care
97 Administration or his or her designee.

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

100 7. A representative from the Executive Office of the
101 Governor.

102 8. The statewide pharmacy director of the Department of
103 Corrections' Office of Health Services.

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

112 (7) Members, who must be residents of this state, shall be
113 selected on the basis of specialty, board certification, prior
114 pharmacy and therapeutic experience, experience treating medical
115 assistance recipients, ability to represent a broad base of
116 constituents, and number of years of practice. Members must not

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117 have any conflicts of interest due to their service on the
118 council.

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

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

125 (10) The council shall meet quarterly or at the call of the
126 chair.

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

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

133 Section 2. Subsection (1) and paragraph (a) of subsection
134 (2) of section 381.0203, Florida Statutes, are amended to read:
135 381.0203 Pharmacy services.—

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

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

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146 (b) The drugs required are not available through the
147 statewide purchasing contract.

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

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

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

162 499.003 Definitions of terms used in this part.—As used in
163 this part, the term:

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

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

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