

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 671 Pharmacy Technicians
SPONSOR(S): Health & Human Services Committee; Hutson
TIED BILLS: **IDEN./SIM. BILLS:** SB 818

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	13 Y, 0 N	O'Callaghan	O'Callaghan
2) Health & Human Services Committee	13 Y, 4 N, As CS	O'Callaghan	Calamas

SUMMARY ANALYSIS

Currently, Florida's laws prohibit a licensed pharmacist from supervising more than one registered pharmacy technician, unless the Department of Health's (DOH) Board of Pharmacy (Board) determines the pharmacy meets certain guidelines and authorizes the licensed pharmacist to supervise more than one, but not more than three, pharmacy technicians.

CS/HB 671 increases the number of registered pharmacy technicians a licensed pharmacist may supervise to six. Additional registered pharmacy technicians may be supervised if permitted by guidelines adopted by the Board. The bill requires Class II institutional pharmacies, such as hospital pharmacies, to follow the same supervision requirements provided for under current law.

The bill requires, for a written prescription for a controlled substance, the date on the prescription to be written legibly and in a certain numeric format.

The bill has an indeterminate, insignificant fiscal impact on the DOH.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Pharmacist and Pharmacy Technician Workforce Demand

Pharmacy technicians assist, and work under the supervision of, licensed pharmacists. Their duties may include dispensing, measuring, or compounding medications; taking information needed to fill a prescription; packaging and labeling prescriptions; accepting payment for prescriptions; answering phones; or referring patients with questions to the pharmacist. Ultimately, the pharmacist reviews all prescriptions. Some reports suggest that the utilization of educated and certified pharmacy technicians allows pharmacists to focus more on direct patient care.¹

Factors that contribute to a high demand for pharmacists and pharmacy technicians include:

- Increased use of prescription medications and the number of prescription medications available;
- Market growth and competition among retail pharmacies resulting in increased job openings and expanded store hours;
- The aging of the U.S. population; and
- An increase in time spent on non-patient care activities, such as office administration.²

Employment of pharmacy technicians in the U.S. has been projected by the U.S. Department of Labor, Bureau of Labor Statistics to increase by 32% between 2010 and 2020.³

To address pharmacist workforce shortages, the U.S. House of Representatives introduced the Pharmacy Technician Training and Registration Act or “Emily’s Act,” suggesting to State Boards of Pharmacy that they strive to ensure 1:2 pharmacist-to-pharmacy technician ratios in hospital settings and 1:3 ratios in other settings, including drug stores.⁴

As of 2009, Florida was among 18 states allowing a maximum 1:3 pharmacist-to-pharmacy technician ratio.⁵ Seventeen states and the District of Columbia had no ratio limits; 8 states allowed a maximum 1:2 pharmacist-to-pharmacy technician ratio; 7 states allowed a 1:4 ratio; and 1 state allowed a 1:1 ratio. More recently, Indiana and Idaho have allowed a 1:6 ratio.⁶ Some states require that higher

¹ See “ASHP Long-Range Vision for the Pharmacy Work Force in Hospitals and Health Systems: Ensuring the Best Use of Medicines in Hospitals and Health Systems,” *American Journal of Health-System Pharmacy*, 64(12):1320-1330, June 15, 2007, available at: www.ashp.org/DocLibrary/BestPractices/HRRptWorkForceVision.aspx (visited March 7, 2013); “White Paper on Pharmacy Technicians 2002: Needed changes can no longer wait,” *American Journal of Health-System Pharmacy*, 60(1): 37-51, January 1, 2003, available at: www.acpe-accredit.org/pdf/whitePaper.pdf (last visited March 7, 2013); and “The Adequacy of Pharmacist Supply: 2004 to 2030,” Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions, December 2008, available at: bhpr.hrsa.gov/healthworkforce/reports/pharmsupply20042030.pdf (last visited March 7, 2013).

² “The Pharmacist Workforce, A Study of the Supply and Demand for Pharmacists,” Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions, December 2000, available at: bhpr.hrsa.gov/healthworkforce/reports/pharmaciststudy.pdf (last visited March 7, 2013).

³ Occupational Outlook Handbook: Pharmacy Technicians, Bureau of Labor Statistics, U.S. Department of Labor, available at: <http://www.bls.gov/ooh/healthcare/pharmacy-technicians.htm> (last visited March 7, 2013).

⁴ U.S. House of Representatives, H.R. 5491, February 26, 2008. Library of Congress Summary available at: <http://www.govtrack.us/congress/bills/110/hr5491#summary/libraryofcongress> (last visited March 7, 2013).

⁵ National Association of Chain Drug Stores, “Standardized Pharmacy Technician Education and Training,” May 2009.

⁶ Indiana changed their ratio July 2, 2012. See Indiana Code, 25-26-13-18. See also, Idaho Board of Pharmacy Rule 251, Pharmacy Technicians.

ratios are contingent on certification or licensure of technicians, or other quality assurance measures.⁷

According to the December 2012 Aggregate Demand Index compiled by the Pharmacy Manpower Project, Inc., Florida has a ranking of 2.86, meaning Florida does not have a shortage of pharmacists. Specifically, this ranking falls between “demand is less than the pharmacist supply available” and “demand is in balance with supply.”⁸

Pharmacy Technicians in Florida

In 2008, the Florida Legislature passed CS/CS 1360, which amended s. 465.014, F.S., to require pharmacy technician applicants to complete a pharmacy technician training program to become a registered pharmacy technician. The bill also provided for the direct supervision of a registered pharmacy technician by a licensed pharmacist.⁹

Section 465.014, F.S., authorizes a licensed pharmacist to delegate to registered pharmacy technicians those duties, tasks, and functions that do not fall within the definition of the practice of the profession of pharmacy. Registered pharmacy technicians’ responsibilities include:¹⁰

- Retrieval of prescription files;
- Data entry;
- Label preparation;
- Counting, weighing, measuring, pouring, and mixing prescription medication;
- Initiation of communication with a prescribing practitioner or medical staff regarding requests for prescription refill authorization, clarification of missing information on prescriptions, and confirmation of information such as names, medication, and strength; and
- Acceptance of authorization for prescription renewals.

The Board specifies by rule¹¹ certain acts that pharmacy technicians are prohibited from performing. Those acts include:

- Receiving new verbal prescriptions or any change in the medication, strength, or directions;
- Interpreting a prescription or medication order for therapeutic acceptability and appropriateness;
- Conducting a final verification of dosage and directions;
- Engaging in prospective drug review;
- Providing patient counseling;
- Monitoring prescription drug usage; and
- Overriding clinical alerts without first notifying the pharmacist.

All registered pharmacy technicians must identify themselves as registered pharmacy technicians by wearing an identification badge with a designation as a “registered pharmacy technician” and verbally identifying themselves as a registered pharmacy technician over the telephone.¹²

The licensed pharmacist is responsible for acts performed by persons under his or her supervision.¹³ Licensed pharmacists may not supervise more than one registered pharmacy technician unless authorized by the Board under guidelines it has established to determine circumstances when a licensed pharmacist may supervise more than one, but not more than three, registered pharmacy

⁷ See National Association of Boards of Pharmacy: Kansas News: Pharmacy Technician Ratio (2006), Minnesota Board of Pharmacy (2000), Idaho State Board of Pharmacy News (2009), available at: <http://www.nabp.net/> (last visited March 7, 2013).

⁸ Aggregate Demand Index, Supported by Pharmacy Manpower Project Inc., available at: <http://www.pharmacymanpower.com/about.jsp> (last visited March 7, 2013).

⁹ 2008-216, L.O.F.

¹⁰ Rule, 64B16-27.420, F.A.C.

¹¹ *Id.*

¹² *Id.*

¹³ Rule 64B16-27.1001(7), F.A.C.

technicians.¹⁴ A prescription department manager or consultant pharmacist of record who seeks to have more than one registered pharmacy technician must submit a written request to the Board for approval and demonstrate workflow needs to justify the increased ratio.¹⁵

At the end of Fiscal Year 2011-2012, there were 37,379 registered pharmacy technicians and 29,311 licensed pharmacists in Florida.¹⁶ As of February 2013, 4,358 Florida licensed pharmacies had a ratio of three pharmacy technicians to one pharmacist, and 588 pharmacies had a ratio of two pharmacy technicians to one pharmacist.¹⁷

Institutional Pharmacies

In Florida, any institution desiring to operate as an institutional pharmacy¹⁸ must apply for a permit from the DOH to do so. If the Board certifies that the application complies with the laws of Florida and the rules of the Board, the DOH must issue the permit.

The following are three classes of institutional pharmacies established under s. 465.019, F.S.:

- *Class I institutional pharmacies:* Institutional pharmacies in which all medicinal drugs are administered from individual prescription containers to the individual patient and in which medicinal drugs are not dispensed on the premises, except that nursing homes licensed under part II of chapter 400, F.S., may purchase medical oxygen for administration to residents. No medicinal drugs may be dispensed in a Class I institutional pharmacy.
- *Class II institutional pharmacies:* Institutional pharmacies which employ the services of at least one registered pharmacist who must provide dispensing and consulting services on the premises to patients of that institution, for use on the premises of that institution. However, during state emergencies medicinal drugs may be dispensed to patients not on the premises. Medicinal drugs may be dispensed in a Class II institutional pharmacy.
- *Modified Class II institutional pharmacies:* Institutional pharmacies in short-term, primary care treatment centers that meet all the requirements for a Class II permit, except space and equipment requirements.

A health care institution must secure an institutional pharmacy permit from the DOH before medicinal drugs may be stocked, stored, compounded, dispensed, or administered. All institutional pharmacies are required to be under the professional supervision of a consultant pharmacist, and the compounding and dispensing of medicinal drugs must be done only by a licensed pharmacist. Every institutional pharmacy that employs or otherwise uses registered pharmacy technicians must have a written policy and procedures manual specifying those duties, tasks, and functions that a registered pharmacy technician is allowed to perform.

In a Class II institutional pharmacy, an institutional formulary system may be adopted with approval of the medical staff for the purpose of identifying those medicinal drugs and proprietary preparations that may be dispensed by the pharmacists employed in the institution. If the facility is operating under the institutional formulary system, it must establish policies and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and American Society of Hospital Pharmacists.

¹⁴ Section 465.014, F.S.

¹⁵ The brief description of workflow needs must include the operating hours of the pharmacy and the number of pharmacists, registered interns, and registered pharmacy technicians employed by the pharmacy. Rule 64B16-27.410, F.A.C.

¹⁶ Department of Health, Bill Analysis of HB 671, February 17, 2013, on file with committee staff.

¹⁷ *Id.*

¹⁸ An “institutional pharmacy” includes every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility where medicinal drugs are compounded, dispensed, stored, or sold. Section 465.003(11)(a)2., F.S.

There are currently 747 Class I institutional pharmacies, 294 Class II institutional pharmacies, and 1,604 Modified Class II institutional pharmacies in Florida.¹⁹

Effect of Proposed Changes

Currently, Florida's laws prohibit a licensed pharmacist from supervising more than one registered pharmacy technician, unless the Board determines the pharmacy meets certain guidelines and authorizes the licensed pharmacist to supervise more than one, but not more than three, pharmacy technicians.

The bill increases the number of registered pharmacy technicians a licensed pharmacist may supervise to six. Additional registered pharmacy technicians may be supervised if permitted by guidelines adopted by the Board. The bill requires Class II institutional pharmacies, such as hospital pharmacies, to follow the same supervision requirements provided for under current law.

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B. SECTION DIRECTORY:

Section 1: Amends s. 456.42, F.S., relating to written prescriptions for medicinal drugs.

Section 2: Amends s. 465.014, F.S., relating to pharmacy technicians.

Section 3: Amends s. 893.04, F.S., relating to pharmacist and practitioner.

Section 4: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill will have an indeterminate, insignificant impact on the DOH, associated with the cost of rulemaking.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁹ Department of Health, COMPAS Pharmacy Report, March 22, 2013, on file with the Health and Human Services Committee.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is necessary to implement this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2013, the Health & Human Services Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Require Class II institutional pharmacies to follow the supervision requirements provided under current law relating to pharmacist supervision of pharmacy technicians.
- Require, for a written prescription for a controlled substance, the date on the prescription to be written legibly and in a numeric month/day/year format.

This analysis is drafted to the committee substitute.