By Senator Boyd

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A bill to be entitled

An act relating to substance abuse prevention; amending s. 381.887, F.S.; revising provisions relating to the prescribing, ordering, and dispensing of emergency opioid antagonists to certain persons; requiring the Department of Health to develop and implement a statewide awareness campaign to educate the public regarding opioid overdoses and the safe storage and administration of emergency opioid antagonists; authorizing licensed pharmacists to dispense an emergency opioid antagonist to certain persons without a prescription, under certain circumstances; authorizing certain persons dispensed opioid antagonists without a prescription to store and possess and, in certain emergency situations, to administer opioid antagonists; providing certain authorized persons immunity from civil and criminal liability for administering emergency opioid antagonists under certain circumstances; authorizing personnel of law enforcement agencies and other agencies and certain other persons to administer emergency opioid antagonists under certain circumstances; creating s. 381.888, F.S.; defining terms; requiring the department, in coordination with the Board of Pharmacy, to establish and administer the At-home Drug Deactivation and Disposal System Program for a specified purpose; providing requirements for the at-home drug deactivation and disposal systems; requiring the department, in coordination with the

board, to develop relevant educational materials and a plan for distribution of the at-home drug deactivation and disposal systems and educational materials; requiring the department, in consultation with the board, to adopt rules; amending s. 401.253, F.S.; requiring certain health care facilities, basic life support services, or advanced life support services to report incidents involving a suspected or actual overdose of a controlled substance; conforming provisions to changes made by the act; amending ss. 456.44 and 465.0276, F.S.; requiring prescribing and dispensing practitioners to concurrently prescribe or dispense an at-home drug deactivation and disposal system along with certain controlled substances; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 381.887, Florida Statutes, are amended to read:

381.887 Emergency treatment for suspected opioid overdose.—

(2)(a) The purpose of this section is to provide for the prescribing, ordering, and dispensing ~~prescription~~ of emergency opioid antagonists ~~an emergency opioid antagonist~~ to patients, ~~and~~ caregivers, and any other persons who may come into contact with a controlled substance or a person who is at risk of experiencing an opioid overdose and to encourage the prescribing, ordering, and dispensing ~~prescription~~ of emergency opioid antagonists by authorized health care practitioners.

(b) The Department of Health shall develop and implement a statewide awareness campaign to educate the public regarding the risk factors of opioid overdoses, the signs and symptoms of opioid overdoses, and how to respond to such overdoses, including the safe storage and administration of emergency opioid antagonists.

(3)(a) An authorized health care practitioner may prescribe and dispense an emergency opioid antagonist to a patient or caregiver for use in accordance with this section, and pharmacists may dispense an emergency opioid antagonist pursuant to such a prescription or pursuant to paragraph (b) ~~a non-patient-specific standing order for an autoinjection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use~~. Such patient or caregiver is authorized to store and possess approved emergency opioid antagonists and, in an emergency situation when a physician is not immediately available, administer the emergency opioid antagonist to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an emergency opioid antagonist.

(b) A pharmacist licensed under chapter 465 may order or dispense an emergency opioid antagonist without a prescription to any person who is at risk of an opioid overdose due to his or her medical condition or history, is a caregiver of someone who is at risk of an opioid overdose, is in a position to assist another person who is at risk of an opioid overdose, or may come into contact with a controlled substance. Such patient or caregiver is authorized to store and possess approved emergency opioid antagonists and, in an emergency situation when a

physician is not immediately available, to administer the emergency opioid antagonist to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an emergency opioid antagonist.

(4) The following persons are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and are immune from any civil liability or criminal liability as a result of administering an emergency opioid antagonist:

(a) Emergency responders, including, but not limited to, law enforcement officers, paramedics, and emergency medical technicians.

(b) Crime laboratory personnel for the statewide criminal analysis laboratory system as described in s. 943.32, including, but not limited to, analysts, evidence intake personnel, and their supervisors.

(c) Personnel of a law enforcement agency or other agency, including, but not limited to, correctional probation officers and child protective investigators who, while acting within the scope or course of employment, come into contact with a controlled substance or a person who is at risk of experiencing an opioid overdose.

(d) A person who is dispensed an emergency opioid antagonist pursuant to paragraph (3)(b) and comes into contact with a controlled substance or a person who is at risk of experiencing an opioid overdose.

Section 2. Section 381.888, Florida Statutes, is created to read:

381.888 At-home Drug Deactivation and Disposal System Program.—

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

(a) "Board" means the Board of Pharmacy.

(b) "Department" means the Department of Health.

(c) "Nonretrievable" has the same meaning as provided in 21 C.F.R. s. 1300.05(b), as that definition exists on the effective date of this act.

(d) "Pharmacy" has the same meaning as provided in s. 465.003(11).

(e) "Program" means the At-home Drug Deactivation and Disposal System Program.

(2) PROGRAM ESTABLISHED.—

(a) The department, in coordination with the board, shall establish and administer the At-home Drug Deactivation and Disposal System Program for the purpose of identifying and distributing a suitable at-home drug deactivation and disposal system that pharmacies must co-dispense with each opioid prescription. The at-home drug deactivation and disposal system must permanently render the active pharmaceutical ingredient nonretrievable, nonusable, and fully nontoxic at the point it enters the state's municipal waste systems.

(b) The department, in coordination with the board, shall develop relevant educational materials and a plan for distribution of the at-home drug deactivation and disposal systems and educational materials to pharmacies in this state.

(3) RULEMAKING AUTHORITY.—The department, in consultation with the board, shall adopt rules to administer the program.

Section 3. Paragraph (a) of subsection (1) and subsections

(3) and (5) of section 401.253, Florida Statutes, are amended to read:

401.253 Reporting of controlled substance overdoses.—

(1)(a) A health care facility, a basic life support service, or an advanced life support service that ~~which~~ treats and releases, or transports to a medical facility, a person in response to an emergency call for a suspected or actual overdose of a controlled substance must ~~may~~ report such incidents to the department. Such reports must be made using the Emergency Medical Service Tracking and Reporting System or other appropriate method with secure access, including, but not limited to, the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program or other program identified by the department in rule. If a health care facility, a basic life support service, or an advanced life support service reports such incidents, it must ~~shall~~ make its best efforts to make the report to the department within 120 hours after it responds to the incident.

(3) A health care facility, a basic life support service, or an advanced life support service that reports information to or from the department pursuant to this section in good faith is not subject to civil or criminal liability for making the report.

(5) The department shall produce a quarterly report to the Statewide Drug Policy Advisory Council, the Department of Children and Families, and the Florida FUSION Center summarizing the raw data received pursuant to this section. Such reports shall also be made immediately available to the county-level agencies described in paragraph (1)(b). The Statewide Drug

Policy Advisory Council, the Department of Children and Families, and the department may use these reports to maximize the utilization of funding programs for health care facilities, licensed basic life support service providers, or advanced life support service providers, and for the dissemination of available federal, state, and private funds for local substance abuse services in accordance with s. 397.321(4).

Section 4. Subsection (6) of section 456.44, Florida Statutes, is amended to read:

456.44 Controlled substance prescribing.—

(6) EMERGENCY OPIOID ANTAGONIST.—For the treatment of pain related to a traumatic injury with an Injury Severity Score of 9 or greater, a prescriber who prescribes a Schedule II controlled substance listed in s. 893.03 or 21 U.S.C. s. 812 must concurrently prescribe an emergency opioid antagonist, as defined in s. 381.887(1), and an at-home drug deactivation and disposal system pursuant to s. 381.888.

Section 5. Paragraph (b) of subsection (1) of section 465.0276, Florida Statutes, is amended to read:

465.0276 Dispensing practitioner.—

(1)

(b) A practitioner registered under this section may not dispense a controlled substance listed in Schedule II or Schedule III as provided in s. 893.03. This paragraph does not apply to:

1. The dispensing of complimentary packages of medicinal drugs which are labeled as a drug sample or complimentary drug as defined in s. 499.028 to the practitioner's own patients in the regular course of her or his practice without the payment of

a fee or remuneration of any kind, whether direct or indirect, as provided in subsection (4).

2. The dispensing of controlled substances in the health care system of the Department of Corrections.

3. The dispensing of a controlled substance listed in Schedule II or Schedule III in connection with the performance of a surgical procedure.

a. For an opioid drug listed as a Schedule II controlled substance in s. 893.03 or 21 U.S.C. s. 812:

(I) For the treatment of acute pain, the amount dispensed pursuant to this subparagraph may not exceed a 3-day supply, or a 7-day supply if the criteria in s. 456.44(5)(a) are met.

(II) For the treatment of pain other than acute pain, a practitioner must indicate "NONACUTE PAIN" on a prescription.

(III) For the treatment of pain related to a traumatic injury with an Injury Severity Score of 9 or greater, a practitioner must concurrently prescribe an emergency opioid antagonist, as defined in s. 381.887(1), and an at-home drug deactivation and disposal system pursuant to s. 381.888.

b. For a controlled substance listed in Schedule III, the amount dispensed pursuant to this subparagraph may not exceed a 14-day supply.

c. The exception in this subparagraph does not allow for the dispensing of a controlled substance listed in Schedule II or Schedule III more than 14 days after the performance of the surgical procedure.

d. For purposes of this subparagraph, the term "surgical procedure" means any procedure in any setting which involves, or reasonably should involve:

(I) Perioperative medication and sedation that allows the patient to tolerate unpleasant procedures while maintaining adequate cardiorespiratory function and the ability to respond purposefully to verbal or tactile stimulation and makes intra- and postoperative monitoring necessary; or

(II) The use of general anesthesia or major conduction anesthesia and preoperative sedation.

4. The dispensing of a controlled substance listed in Schedule II or Schedule III pursuant to an approved clinical trial. For purposes of this subparagraph, the term "approved clinical trial" means a clinical research study or clinical investigation that, in whole or in part, is state or federally funded or is conducted under an investigational new drug application that is reviewed by the United States Food and Drug Administration.

5. The dispensing of methadone in a facility licensed under s. 397.427 where medication-assisted treatment for opiate addiction is provided.

6. The dispensing of a controlled substance listed in Schedule II or Schedule III to a patient of a facility licensed under part IV of chapter 400.

7. The dispensing of controlled substances listed in Schedule II or Schedule III which have been approved by the United States Food and Drug Administration for the purpose of treating opiate addictions, including, but not limited to, buprenorphine and buprenorphine combination products, by a practitioner authorized under 21 U.S.C. s. 823, as amended, to the practitioner's own patients for the medication-assisted treatment of opiate addiction.

Section 6. This act shall take effect July 1, 2021.