FLORIDA HOUSE OF REPRESENTATIVES
BILL ANALYSIS

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BILL #: HB 1297	**COMPANION BILL:** None
TITLE: Electronic Prescribing	**LINKED BILLS:** None
SPONSOR(S): Partington	**RELATED BILLS:** SB 1568 (Brodeur)

Committee References

Health Professions & Programs
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Health & Human Services

SUMMARY

Effect of the Bill:

HB 1297 aligns Florida's exceptions to the electronic prescribing requirement with federal exceptions for electronic prescribing by removing state-specific exemptions and adding federal exemptions.

Fiscal or Economic Impact:

The bill will have an indeterminate, negative fiscal impact on the state government. See Fiscal or Economic Impact.

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ANALYSIS

EFFECT OF THE BILL:

Florida law requires prescribers who have an electronic health record system to prescribe all medications electronically unless one of eight exemptions apply. Current Federal regulations require prescribers to electronically prescribe controlled substances under a Medicare Part D drug plan unless one of three exemptions apply.

The bill aligns Florida's exceptions to the electronic prescribing requirement with federal exceptions for electronic prescribing by removing state-specific exemptions and adding federal exemptions. Specifically, the bill requires all prescribers, not just those who have an electronic health record system, to prescribe all medications electronically unless:

- The prescriber has been issued a waiver by the Department of Health because the prescriber cannot meet the requirement due to circumstances beyond the prescriber's control;
- The prescriber issues 100 or fewer relevant prescriptions per year; or
- The prescriber is in the geographic areas for which a state of emergency is declared pursuant to s. 252.36. (Section 1)

The bill updates cross references. (Sections 2 and 3)

The bill provides an effective date of July 1, 2025. (Section 4)

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The Department of Health (DOH) estimates that there will be an indeterminate cost to comply with the bill. DOH will incur nonrecurring costs for rulemaking, which can be absorbed within current resources. DOH will also incur

nonrecurring increase in workload associated with notifying and communicating changes to electronic prescribing requirements, which can be absorbed within current resources.[1]

RELEVANT INFORMATION

SUBJECT OVERVIEW:

Electronic Prescribing

Electronic prescribing (e-prescribing) is a method by which health care practitioners use an electronic device such as a computer or tablet to enter and securely transmit prescriptions to pharmacies using special software and connectivity to a transmission network.[2] Numerous benefits have been attributed to e-prescribing including, improved prescription accuracy, increase patient safety, reduction of opportunities for fraud, and cost reduction.[3]

Patient Safety

An adverse drug event (ADE) is harm experienced by the patient as a result of exposure to medicine.[4] Each year, ADEs account for approximately 700,000 emergency department visits and 100,000 hospitalizations.[5] Some ADEs occur without accessing hospital care, such as overdoses to opioid medications.[6] Medication errors most commonly occur during the prescribing, ordering, and administration stage; approximately 50% of medication errors occur when a medication is prescribed or ordered.[7] It is estimated that about half of ADEs are preventable.[8] E-prescribing can help reduce errors due to illegible handwriting, lost paper scripts, and incomplete or inaccurate instructions.[9]

Fraud

Individuals may illegally obtain prescription medication by using fraudulent, forged, or altered written prescriptions. In an effort to reduce fraud related to the use or misuse of controlled substances, Florida law requires prescribers to use counterfeit-proof prescription pads purchased from an authorized supplier for written prescriptions for controlled substances.[10] A counterfeit-proof prescription pad must include the following features:[11]

- A background color that is blue or green and resists reproduction;
- Printed on artificial watermarked paper;
- Resists erasures and alterations; and
- The word "void" or "illegal" must appear on any photocopy or reproduction;

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[1] Department of Health, *2025 Agency Legislative Bill Analysis on HB 1297*, on file with the Health Professions & Programs Subcommittee.
[2] The Office of the National Coordinator for Health Information Technology, *What is Electronic Prescribing?*, https://www.healthit.gov/faq/what-electronic-prescribing (last visited Mar. 17, 2025).
[3] Agency for Health Care Administration, *Florida Electronic Prescribing Annual Report for 2023*, https://ahca.myflorida.com/content/download/25388/file/2023eRxAnnualReport_Final.pdf (last visited Mar. 17, 2025).
[4] U.S. Department of Health and Human Services, *Agency for Healthcare Research and Quality, Medication Errors and Adverse Drug Events* (last rev. Sep. 2019), https://psnet.ahrq.gov/primer/medication-errors-and-adverse-drug-events (last visited Mar. 17, 2025).
[5] *Id*.
[6] *Id*.
[7] Rayhan A. Tariq, Rishik Vashisht, Ankur Sinha, et al., *Medication Dispensing Errors and Prevention*, [Feb, 2024], available at https://www.ncbi.nlm.nih.gov/books/NBK519065/ (last visited Mar. 17, 2025).
[8] *Id*.
[9] Matthew E. Hirschtritt, M.D., M.P.H., Steven Chan, M.D., M.B.A, and Wilson O.Ly, Pharm.D,M.Sc, *Realizing E-Prescribing's Potential to Reduce Outpatient Psychiatric Medication Errors*, [2017], available at https://psychiatryonline.org/doi/10.1176/appi.ps.201700269 (last visited Mar. 17, 2025).
[10] S. 456.42, F.S.
[11] Rule 64B-3.005, F.A.C.

Health care practitioners and health care facilities must return unused counterfeit-proof prescription to the vendor to be destroyed.[12] Even with these precautions, there is still the danger of a legitimate prescription pad being stolen from a health care practitioner's office or a health care facility and fraudulent prescriptions written.[13]

E-prescribing eliminates the risk of stolen prescription pads and, with the two-factor authentication required by the U.S. Drug Enforcement Administration (DEA), may further reduce unauthorized or altered prescriptions.[14]

Efficiency

E-prescribing creates efficiencies for prescribers, patients, and pharmacies. For prescribers, e-prescribing can be integrated into electronic health records, which includes patient information such as clinical notes, laboratory results, and clinical decision support functions.[15] E-prescribing also improves the accuracy of prescriptions and helps guide clinical decision-making by checking the appropriateness of a prescription and connecting to a patient's health insurance for its formulary.[16] Prescribers have also indicated that less time is spent resolving issues with pharmacies, including prior authorizations and refill requests, allowing more time to be spent on patient care.[17] The software also automates certain tasks which allows staff to perform other functions. Such efficiencies may ultimately lower overall operating costs.

Patients may also benefit from e-prescribing efficiencies due to the ability of the prescriber to check for drug interactions, drug allergies, and whether a particular drug is covered by their insurance. This may enable patients to reduce copayment expenses or inconvenience associated with requesting an alternate medication from the prescriber if the drug prescribed is not covered or too expensive.[18]

Finally, pharmacies will likely benefit from e-prescribing efficiencies because it reduces the time spent on interpreting a prescription. Pharmacists must contact prescribers if a prescription is illegible or inconsistent, which affords the pharmacist more time to counsel patients.[19]

Cost Savings

As noted above, ADEs result in many emergency room visits and hospitalizations, as well as additional visits to the prescriber's office. Although e-prescribing will not prevent all ADEs,[20] they may reduce the number of ADEs due to improved prescribing and the assistance of decision support systems.[21] The efficiencies noted above may also lead to a reduction to overall operating costs.

Cost of Implementation

The cost of an e-prescribing system is based on the number of prescribers using the system and the options included in the system. It has been previously estimated that the cost for of a full electronic health record (EHR)

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[12] *Id.*
[13] U.S. Department of Justice, Drug Enforcement Administration, Diversion Control Division, *A Pharmacist's Guide to Prescription Fraud*, (Feb. 2000), available at https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-002R1)(EO-DEA009R1)_RPH_Guide_to_RX_Fraud_Trifold_(Final).pdf (last visited Mar. 17, 2025).
[14] National Association of Chain Drug Stores, *Opioid Abuse Epidemic: Solutions from the Front Lines of Care*, (last rev. May 2019), available at https://www.nacds.org/pdfs/government/2017/Opioid-Policy-Oct-2017.pdf (last visited Mar. 17, 2025).
[15] Amber Porterfield, et. al., *Electronic Prescribing: Improving the Efficiency and Accuracy of Prescribing in the Ambulatory Care Setting*, Perspect. Health Inf. Manage. 2014 Spring: 11 (Apr. 2014), available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3995494/ (last visited Mar. 17, 2025).
[16] Academy of Managed Care Pharmacy, *Concept Series Paper on Electronic Prescribing*, available at https://amcp.org/sites/default/files/2019-03/Electronic%20Prescribing.pdf (last visited Mar. 17, 2025).
[17] *Supra,* note 15.
[18] *Id.*
[19] Amina Hareem, Joshua Lee, et al., Benefits and Barriers Associated with E-prescribing in Community Pharmacy—A systemic Review, available at https://pmc.ncbi.nlm.nih.gov/articles/PMC10746557/ (last visited Mar. 17, 2025).
[20] Some ADEs are unavoidable even if the medication is properly prescribed and administers. These are often known side effects of a medication. See *supra* note 4.
[21] *Supra,* note 4.

system that includes e-prescribing for an office with 10 full-time prescribers is approximately $42,332 for implementation and $14,725 for annual maintenance.[22] According to an industry analysis of e-prescribing software costs, the annual cost of a stand-alone e-prescribing system that meets the Drug Enforcement Administration's requirements for electronically prescribing controlled substances (EPCS) ranges from $170 to $650.[23] The fee for initial set-up of the software may be included; however, some vendors may charge additional fees for set-up and for a token for the two-factor authentication. In 2018, a health IT management consulting company identified the estimated cost of adding on EPCS functionality to the most widely used EHR systems:[24]

EHR	EPCS Setup (One-time fee)	Annual Ongoing Cost
Allscripts Professional	$340 per provider	$150 per provider
Allscripts Touchworks	$6,000 per practice	$150 per provider
Amazing Charts	$0	$250 per provider
Aetna	$0	$0 per provider
Cerner		Varies based upon # of providers
DrFirst	$90 per provider	$75 per provider
eClinicalWorks	$250 per provider	$0 per provider
E-MDs	$225 per provider	$120 per provider
Epic		Varies based upon # of providers
GE Centricity	$0	$5,988 per provider
Greenway Intergy	$150 per provider	$90 per provider
Greenway PrimeSuite	$150 per provider	$90 per provider
NewCrop	$150 per provider	$150 per provider
NextGen	$0	included in ePrescribing
Practice Fusion	$0	included in ePrescribing

The Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, authorized incentive payments through Medicare and Medicaid to health care practitioners and hospitals for meaningfully using EHRs to help offset some of the costs related to the adoption of electronic health record systems.[25] The incentive program consists of two stages. Stage one required the electronic capture of clinical data, including transmitting at least 40 percent of eligible prescriptions electronically.[26] In stage two, health care providers must demonstrate meaningful use for a full year; stage two retains the objective that eligible prescriptions be transmitted electronically.[27] Participants could choose to participate under Medicare or Medicaid, but could only participate in

[22] *Supra,* note 15.
[23] The U.S. Drug Enforcement Administration requires electronic prescribing software for controlled substances to have two-factor authentication to verify the identity of the prescriber and protect such credentials from misuse (21 C.F.R. 1311). *See* Eclinicworks, *E-prescribing of Controlled Substances*, available at https://www.eclinicalworks.com/wp-content/uploads/2016/11/ePrescribing-of-Controlled-Substances-Slick.pdf; RxNT, *ERX*, available at https://www.rxnt.com/eprescribing/ (last visited Mar. 17, 2025).
[24] HealthTech Zone, *Three Factors Contributing to Lagging Provider Adoption of EPCS*, (Apr. 2018), available at http://www.healthtechzone.com/topics/healthcare/articles/2018/04/03/437665-three-factors-contributing-lagging-provider-adoption-epcs.htm (last visited Mar. 17, 2025).
[25] Medscape, *EHR Incentive Programs: Achieving Meaningful Use*, available at https://www.medscape.org/viewarticle/770841#content=0_0 (last visited Mar. 17, 2025).
[26] *Id.*
[27] Centers for Medicare and Medicaid Services, *Stage 2 Overview Tipsheet*, (Aug. 2012), available at https://www.cms.gov/regulations-and-guidance/legislation/ehrincentiveprograms/downloads/stage2overview_tipsheet.pdf (last visited Mar. 17, 2025). For the initial year of stage 2, CMS required providers to demonstrate meaningful use for 90 days, but in subsequent year the requirement is for a full year.

one of the programs. The maximum incentive available under Medicare was $44,000 across five years and under Medicaid, $63,750 across six years.[28]

Incentive payments for the Medicare program ended in 2016, and the Medicaid program ended in 2021.[29] The Centers for Medicare and Medicaid Services (CMS) subsequently launched the Promoting Interoperability Program and implemented a merit-based incentive program to reward value and outcomes.[30] The focus of the program is on interoperability, improved flexibility, and placing emphasis on the use of electronic exchange of health information between patients and providers.[31] Promoting interoperability objectives, which includes the use of e-prescribing and EHRs, may account for up to 25 percent of the final score for the merit-based incentive.[32]

According to the Office of the National Coordinator for Health Information Technology (ONC), approximately 80 percent of office-based physicians in Florida have adopted EHRs that meet the criteria for meaningful use.[33] The ONC also found that, as of June 2017, 97 percent of hospitals of Florida hospitals had adopted EHRs that meet the criteria for meaningful use.[34]

EPCS Application Requirements

E-prescribing relies on specialized software to securely generate and transmit sensitive information between the health care provider and pharmacy. All applications used for EPCS must meet standards established by the Federal Drug Enforcement Administration (DEA).[35] All prescriptions issued electronically for controlled substances must meet these requirements regardless of whether the patient is under Medicare Part D. EPCS software must be capable of authenticating prescriber and patient identities, detecting irregularities, and preventing duplication, among other technical security standards.[36]

The federal Drug Enforcement Administration (DEA) implements the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA).[37] In 2010, the DEA adopted a rule authorizing prescriber to issue electronic prescriptions for controlled substances and permitted pharmacies to receive, dispense, and archive these electronic prescriptions.[38] To e-prescribe controlled substances, a prescriber must:[39]

- Purchase or use DEA-compliant software that supports e-prescribing;

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[28] Centers for Medicare and Medicaid Services, *An Introduction to the Medicare EHR Incentive Program for Eligible Professionals*, available at https://www.cms.gov/Regulations-and-Guidance/Legislation/EHRIncentivePrograms/Downloads/EHR_Medicare_Stg1_BegGuide.pdf (last visited Mar. 17, 2025).
[29] Centers for Medicare and Medicaid Services, *Medicare and Medicaid Promoting Interoperability Program Basics*, (last rev. Aug. 2019), available at https://www.cms.gov/regulations-and-guidance/legislation/ehrincentiveprograms/basics.html (last visited Mar. 17, 2025). Participants must have enrolled to participate in the Medicaid program before 2016 to be eligible for incentive payments.
[30] *Id.*
[31] *Id.*
[32] Centers for Medicare and Medicaid Services, *Quality Payment Program*, available at https://qpp.cms.gov/participation-lookup/about?py=2019 (last visited Mar. 17, 2025), Centers for Medicare and Medicaid Services, *Merit-based Incentive Payment System: Promoting Interoperability Requirements*, available at https://qpp.cms.gov/mips/promoting-interoperability?py=2019 (last visited Mar. 17, 2025), and Centers for Medicare and Medicaid Services, *Quality Payment Program: Explore Measures*, available at https://www.cms.gov/medicare/quality/measures (last visited Mar. 17, 2025).
[33] U.S. Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, *Florida Health IT Summary*, available at https://dashboard.healthit.gov/apps/health-information-technology-data-summaries.php?state=Florida&cat9=all+data (last visited Mar. 17, 2025).
[34] *Id.*
[35] The DEA establishes these requirements according to the agency's responsibilities under the Controlled Substances Act. *See*, 21 U.S.C. 829 (a) and 871(b).
[36] 21 CFR 1311.120
[37] 21 U.S.C. 801–971.
[38] 21 C.F.R. s. 1306.08 and 21 C.F.R. Part 1311.
[39] *Id*.

- Complete the identity-proofing process to acquire a two-factor authentication credential or digital certificate;
- Attach the authentication credential to his or her identity;
- Set access controls so that only individuals who may legally prescribe a controlled substance are allowed to do so; and
- Access the e-prescribing or electronic health record platform.

Florida Electronic Prescribing Requirements

Current Florida law requires prescribers to prescribe electronically, but this requirement only applies to prescribers who have an electronic health record system. Florida law also exempts prescribers from this requirement if:

- The practitioner and the dispenser are the same entity;
- The prescription cannot be transmitted electronically under the current national standard;
- The practitioner has been issued a waiver by the Department of Health;[40]
- The practitioner determines that the use of e-prescribing would delay a patient's access to a drug thus adversely impacting the patient's medical condition;
- The drug is being prescribed under a research protocol;
- The prescription is for a drug which the federal Food and Drug Administration requires the prescription contain elements that may not be included in e-prescribing;
- The prescription is for an individual receiving hospice care or a resident of a nursing home facility; or
- The practitioner determines that it is in the best interest of the patient, or the patient determines that it is in his or her own best interest, to compare prescription drug prices among area pharmacies. The practitioner must document such determination in the patient's medical record.

Current law requires prescriptions that are electronically generated and transmitted to contain the following: [41]

- The name of the prescriber;
- The name and strength of the drug prescribed;
- The quantity of the drug prescribed in numerical format;
- Directions for use;
- Date and electronic signature of the prescriber.

E-prescribing software may not interfere with a patient's choice of pharmacy or use any means, such as pop-up ads, advertising, or instant messaging to influence or attempt to influence the prescribing decision of the prescriber at the point of care.[42] E-prescribing software may provide formulary information, as long as nothing makes it more difficult or precludes a prescriber from selecting a specific pharmacy or drug.[43]

Federal Electronic Prescribing Requirements

Federal policy does not broadly mandate the use of e-prescribing for prescriptions generally, nor controlled substances specifically. Federal policy establishes requirements for e-prescribing applications used in prescribing controlled substances in order to ensure secure and fraud-free transmissions. The only circumstance where the Federal government mandates the use of e-prescribing is for controlled substances prescribed under a Medicare Part D drug plan.

Medicare Part D Mandatory e-Prescribing

[40] Waivers are not to exceed one year, and may be issued due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the practitioner, or another exceptional circumstance demonstrated by the practitioner.
[41] S. 456.42, F.S.
[42] S. 456.43, F.S.
[43] *Id.*

Federal law requires all Schedule II-V controlled substances prescribed under a Medicare Part D drug plan must be prescribed electronically unless an exemption applies.[44]

CMS monitors prescriber compliance through the EPCS Program. Prescribers who use e-prescribing for less than 70 percent of annual prescribing for controlled substances under Medicare Part D are notified of their noncompliance which may be considered by CMS during the assessment for potential fraud, waste, and abuse.[45] Currently, there are three exemptions:

- The prescriber has obtained a CMS-approved waiver because the prescriber cannot meet the requirements due to circumstances beyond the prescriber's control;
- The prescriber issues 100 or fewer relevant prescriptions per year; or
- The prescriber is in the geographic area of an emergency or disaster declared by a Federal, State, or local government entity.

E-Prescribing Exemptions: Federal vs State		
	Federal – Medicare Part D Patients Only	**Florida – All Patients**
	Controlled Substances (Schedules II-V)[46]	All Drugs
Exemptions		
1. Prescriber and dispenser are the same entity		X
2. Prescriber issues fewer than 100 relevant prescriptions annually	X	
3. Prescriber is located in a declared emergency or disaster area	X	
4. Prescriber has been issued a waiver due to circumstances outside of the prescriber's control	X	X
5. Prescriber does not maintain an electronic health record system		X
6. Prescription cannot be transmitted electronically under the most recent National Council for Prescription Drug Programs SCRIPT Standard		X
7. Prescriber determines that eRx would be impractical for patient to obtain an electronically prescribed drug in a timely manner and such delay would adversely impact patient's medical condition		X
8. Drug is being prescribed under a research protocol		X

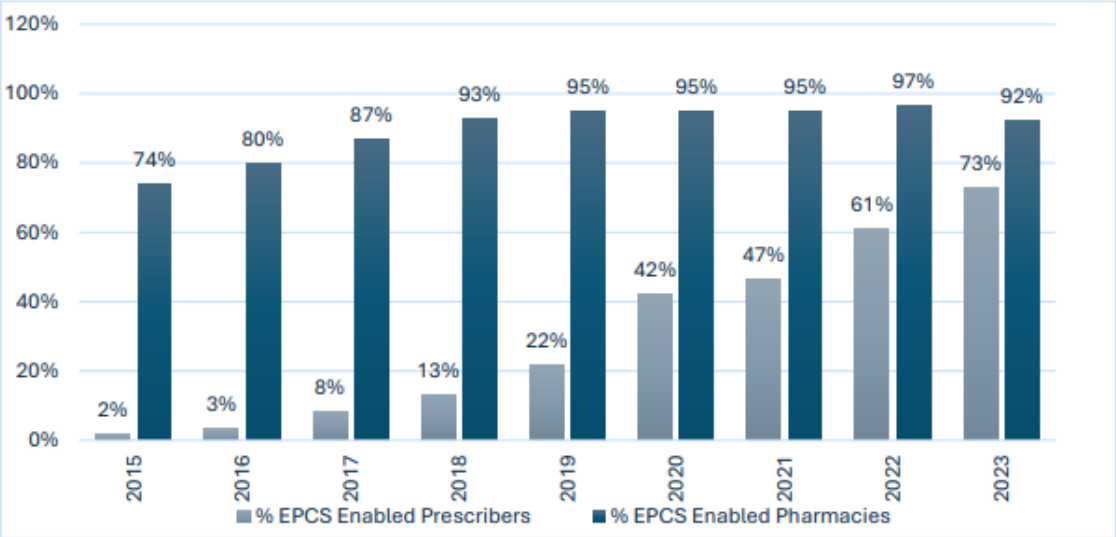
[44] P.L. 115-271, Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act).
[45] Centers for Medicare & Medicaid (2024). *CMS Electronic Prescribing for Controlled Substances (EPCS) Program*. Available at https://www.cms.gov/medicare/e-health/eprescribing/cms-eprescribing-for-controlled-substances-program (last visited Mar. 17, 2025).
[46] The shaded cells were federal exemptions at the time the Florida e-prescribing exemptions became law but have subsequently been removed.

9. Federal FDA requires the prescription contain elements not available in eRx		X
10. Patient is receiving hospice care or who is a resident of a nursing home facility		X
11. Prescriber or patient determines that it is in the patient's best interest to compare drug prices among pharmacies		X

Florida Prescribers

The Agency for Health Care Administration (AHCA) houses a clearinghouse of information on electronic prescribing, including trends on the adoption and use of e-prescribing in the state.[47] In creating the clearinghouse, AHCA worked in collaboration with the private sector and relevant stakeholders, including representatives of health care practitioners, pharmacies, health care facilities, organizations that operate e-prescribing networks, organizations that create e-prescribing products, and regional health information organizations.[48] AHCA annually reports to the Governor and Legislature on the implementation of electronic prescribing by health care practitioners, facilities, and pharmacies.[49]

In its November 2024 report, AHCA reported that the average number of e-prescriptions per month increased from 372,085 in 2008 to 17,472,000 in 2023. The report also states that e-prescribers in the state increased by 106.20% with 73% of prescribers and 92% of pharmacies capable of e-prescribing controlled substances.[50]



[47] S. 408.0611, F.S.
[48] *Id.*
[49] *Id.*, and Agency for Health Care Administration, Florida Center for Health Information and Transparency, *Florida Electronic Prescribing Annual Report for 2023*, (Nov. 2024), available at https://ahca.myflorida.com/content/download/25388/file/2023eRxAnnualReport_Final.pdf (last visited Mar. 17, 2024).
[50] Agency for Health Care Administration, Florida Center for Health Information and Transparency, *Florida Electronic Prescribing Annual Report for 2023*, (Nov. 2024), available at https://ahca.myflorida.com/content/download/25388/file/2023eRxAnnualReport_Final.pdf (last visited Mar. 17, 2025).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Health Professions & Programs Subcommittee	18 Y, 0 N	3/20/2025	McElroy	Clenord
Health & Human Services Committee				