

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Health and Human Services

BILL: CS/SB 714

INTRODUCER: Appropriations Committee on Health and Human Services and Senator Burton

SUBJECT: Nonopioid Advance Directives

DATE: March 19, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|------------------|-----------------|------------|------------------|
| 1. | <u>Looke</u> | <u>Brown</u> | <u>HP</u> | Favorable |
| 2. | <u>Gerbrandt</u> | <u>McKnight</u> | <u>AHS</u> | Fav/CS |
| 3. | _____ | _____ | <u>FP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 714 amends s. 765.1103, F.S., to require the Department of Health (DOH) to develop a nonopioid advance directive form which would allow a person to indicate that he or she does not want to be prescribed or administered an opioid drug for pain management or palliative care should he or she become incapacitated. The bill provides requirements for such a form to be valid and allows a person revoke the form, verbally or in writing, for any reason.

The bill has an insignificant negative fiscal impact on state revenues and expenditures. **See Section V. Fiscal Impact Statement.**

The bill takes effect July 1, 2025.

II. Present Situation:

Opioids

Opioids are a class of natural, semi-synthetic, and synthetic drugs that include both prescription medications and illegal drugs like heroin. Prescription medications such as oxycodone, hydrocodone, morphine, codeine, fentanyl, and others are mainly used for the treatment of pain.

They can also help treat cough or diarrhea. However, like illegal opioids, prescription opioids can be addictive, particularly if they are misused.¹

Health Risks of Opioids

Opioids are addictive. People can quickly lose control over their opioid use and need to keep using them to feel “normal.” High doses can lead to overdose. Opioids can slow breathing to life-threatening levels. As a result, not enough oxygen reaches the brain. This can cause severe brain damage or death.

Opioid use, even as prescribed by a health care provider or only for a short time, can lead to negative health effects.

- Opioid medications may have unpleasant effects, particularly when people take them for a longer time. These include constipation, nausea and vomiting, headache, dizziness, and sleepiness or sleep problems.
- Depending on the dose and how long people use them, opioids can cause cardiovascular changes, such as slower heart rate, low blood pressure, heart failure, and cardiac arrest.
- Opioids can impair the immune system, increasing risk of infection.
- Opioid use, particularly in high doses or for a long period of time, can cause changes in a person’s body that can make them more sensitive to pain.
- Opioid use also has been associated with mental disorders like depression or sexual dysfunction.²

Nonopioid Directives

Several other states and the federal government have either introduced or passed laws that allow for nonopioid directives. See the chart below from 2022 for details:³

¹ National Institute on Drug Abuse, *Opioids*, Nov. 2024, available at <https://nida.nih.gov/research-topics/opioids#health-risks>, (last visited Feb. 27, 2025).

² National Institute on Drug Abuse, *Opioids*, Nov. 2024, available at <https://nida.nih.gov/research-topics/opioids#health-risks>, (last visited Feb. 27, 2025).

³ Bicket MC, Waljee J, Hilliard P. Nonopioid Directives: Unintended Consequences in the Operating Room. *JAMA Health Forum*. 2022;3(6):e221356. doi:10.1001/jamahealthforum.2022.1356 (available at <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2793282>, (last visited Feb. 27, 2025).

Table. US Nonopioid Directive Policies, by Federal or State Legislative Entity, 2022

| Legislative entity | Status | Exemption | | Year passed | Description | Clinician role |
|--|----------|------------------|--|-------------|---|------------------------------|
| | | Intraoperative | Other setting | | | |
| US House of Representatives ^a | Proposed | Yes | Emergency care, hospice, SUDT | Pending | Patient must not "be administered (with the exception of intraoperative opioid use) an opioid or offered a prescription for an opioid for pain management." | NS |
| US Senate ^b | Proposed | Yes | Hospice, SUDT | Pending | Patient must not "be administered (with the exception of intraoperative opioid use) an opioid or offered a prescription for an opioid for pain management." | NS |
| Alaska ^c | Passed | No | No | 2017 | Patient certifies refusal of administration of "any opioid medications including in an emergency situation." | Signature for verification |
| Connecticut ^d | Passed | No | No | 2017 | Patient certifies refusal of offer or administration of "any opioid medications at any time, including during an emergency situation." | Signature required |
| Louisiana ^e | Passed | No | No | 2018 | Patient certifies refusal of offer or administration of "any opioid medications" | Signature permitted |
| Massachusetts ^f | Passed | No | No | 2016 | Patient certifies refusal of offer or administration of "any opioid medications at any time, including during an emergency situation." | Signature required |
| Michigan ^g | Passed | Yes ^h | Emergency care, hospice, SUDT | 2017 | Patient "must not be administered an opioid or offered a prescription for an opioid." | NS |
| Pennsylvania ⁱ | Passed | No | Based on professional medical judgment | 2016 | Patient refuses "offer, supply, prescription or other administration of any controlled substance containing an opioid." | Signature for acknowledgment |
| West Virginia ^j | Passed | No | No | 2018 | Patient certifies refusal of offer or administration of "any opioid medications at any time, including during an emergency situation." | Signature required |

Abbreviations: NS, none specified; SUDT, substance use disorder treatment.

^a Non-Opioid Directive Act, HR 4098. <https://www.congress.gov/bill/117th-congress/house-bill/4098/text>

^b Non-Opioid Directive Act, S 1292. <https://www.congress.gov/bill/117th-congress/senate-bill/1292>

^c Alaska Department of Health and Social Services. Voluntary Non-opioid Directive. <https://dhss.alaska.gov/dph/Director/Documents/opioids/VoluntaryNonOpioidDirective.pdf>

^d Connecticut Department of Public Health. Voluntary Non-Opioid Directive. https://portal.ct.gov/-/media/DPH/CT-VNOD-Form_FINAL.pdf

^e Louisiana Department of Health. Voluntary Non-Opioid Directive Form. <https://dh.la.gov/assets/docs/BehavioralHealth/Opioids/VoluntaryNonOpioidFormFINAL9618.pdf>

^f Massachusetts Department of Public Health. Voluntary Non-Opioid Directive. <https://www.mass.gov/doc/voluntary-non-opioid-directive/download>

^g Michigan Department of Health and Human Services. Nonopioid Directive. https://www.michigan.gov/documents/opioids/MDHHS-5793_650584_7.dotx

^h Michigan Public Act 41, HB 5261. <http://legislature.mi.gov/doc.aspx?2021-HB-5261>

ⁱ Pennsylvania Department of Health. Pennsylvania Patient Non-Opioid Directive. <https://www.health.pa.gov/topics/Documents/Opioids/Pennsylvania%20Non-Opioid%20Directive.pdf>

^j West Virginia Department of Health and Human Resources. Voluntary Non-Opioid Directive. <https://dhhr.wv.gov/Office-of-Drug-Control-Policy/Documents/WV%20NonOpioid%20Directive.pdf>

III. Effect of Proposed Changes:

The bill amends s. 765.1103, F.S., to require the DOH to develop a voluntary nonopioid advance directive form to allow a person to indicate to a treating health care provider that he or she does not want to be prescribed or administered an opioid drug for pain management or palliative care should he or she become incapacitated. The DOH must make the form available on its website, and the form must indicate that the person may not be prescribed or administered an opioid drug.

The bill specifies that a valid form must be signed by both the patient and a physician licensed under ch. 458 or 459, F.S., and must be filed in the patient’s medical record, either with a health care facility of the patient’s choosing or the patient’s primary care physician, or both, and must be transferable to another facility or provider upon the patient’s request. A person may revoke the form either in verbally or in writing for any reason.

The bill also exempts a health care provider from civil or criminal liability for failing to act in accordance with the nonopioid advance directive if the health care provider who has no actual knowledge of the advance directive prescribes, administers, or orders an opioid to a patient in an emergency situation as long as the prescription was not the result of gross negligence or willful misconduct. The bill defines “medical emergency” to include an emergency medical condition and emergency services and care, as those terms are defined in s. 395.002, F.S.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has an insignificant negative fiscal impact on the Department of Health (DOH) due to the bill's provisions that require the DOH to develop a voluntary nonopioid advanced directive form and make it available on their website. These costs can be absorbed within existing agency resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 765.1103 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations Committee on Health and Human Services on March 18, 2025:

The committee substitute:

- Extends protection from civil and criminal liability to healthcare providers who prescribe, *administer*, and *order* opioids in certain emergency situations to individuals with a nonopioid advance directive.
- Revises the term “medical emergency situation” in the bill to include an emergency medical condition and emergency services and care, as those terms are defined in s. 395.002, F.S.

- B. **Amendments:**

None.