

## HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

|                             |   |                                  |         |
|-----------------------------|---|----------------------------------|---------|
| <b>BILL #:</b>              | CS/HB 323   | <b>FINAL HOUSE FLOOR ACTION:</b> |         |
| <b>SPONSOR(S):</b>          | Health & Human Services<br>Committee; La Rosa; Campbell<br>and others | 111 Y's                          | 0 N's   |
| <b>COMPANION<br/>BILLS:</b> | CS/CS/CS/SB 278; CS/CS/HB<br>7113; CS/CS/SB 1354                      | <b>GOVERNOR'S ACTION:</b>        | Pending |

---

### SUMMARY ANALYSIS

CS/HB 323 passed the House on April 25, 2014. The bill was amended by the Senate on May 2, 2014, and subsequently passed the House on May 2, 2014.

The bill makes various changes to the regulation of pharmacists, pharmacy technicians, and prescriptions. The bill allows a pharmacist to supervise more than one pharmacy technician if authorized under guidelines established by the Board of Pharmacy (Board), and removes the statutory cap limiting supervision to three pharmacy technicians if approved by the Board under its adopted guidelines.

The bill revises the composition of the Board by increasing the number of pharmacists representing community and institutional class II pharmacies from one to two members in each category.

The bill authorizes pharmacists to administer the meningococcal vaccine under physician protocol and removes the requirement for a pharmacist to have a prescription from a physician to administer the shingles vaccine.

The bill requires the date on a written prescription for a controlled substance to be in a numeric, month/day/year format; have the abbreviated month written out; or have the month written out in whole.

The bill has an indeterminate, insignificant negative fiscal impact on the Department of Health.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2014.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Present Situation**

##### Pharmacists and Pharmacy Technicians

Pharmacists and pharmacy technicians are regulated under ch. 465, F.S., by the Board of Pharmacy (Board) within the Department of Health (DOH).

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.<sup>1</sup>

##### The Board of Pharmacy

The Board is established pursuant to s. 465.004, F.S., and consists of nine members appointed by the Governor and confirmed by the Senate. Seven members of the Board must be licensed pharmacists and residents of this state engaged in the practice of pharmacy for at least four years. Of the pharmacist members, one must be currently engaged in the practice of pharmacy in a community pharmacy, one must be currently engaged in the practice of pharmacy in a Class II institutional pharmacy<sup>2</sup> or a Modified Class II institutional pharmacy<sup>3</sup>, and five must be licensed pharmacists regardless of the type of practice.

Two members of the Board must be residents of this state who are not connected to the practice of pharmacy. One member of the Board must be at least 60 years old. The members serve four years. Currently, there is one vacancy on the Board.<sup>4</sup>

##### Pharmacy Technician Supervision

##### *Delegated and Prohibited Tasks*

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:<sup>5</sup>

- Retrieval of prescription files;
- Data entry;

---

<sup>1</sup> 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](http://www.ashp.org/DocLibrary/BestPractices/HRRptWorkForceVision.aspx) (visited January 30, 2014); "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](http://www.acpe-accredit.org/pdf/whitePaper.pdf) (last visited January 30, 2014); 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](http://bhpr.hrsa.gov/healthworkforce/reports/pharmsupply20042030.pdf) (last visited January 30, 2014).

<sup>2</sup> A Class II institutional pharmacy is an institutional pharmacy which employs the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution for use on the premises of that institution. Section 465.019(2)(b), F.S.

<sup>3</sup> A Modified Class II institutional pharmacy is a pharmacy in short-term, primary care treatment centers that meet all the requirements for a Class II permit, except space and equipment requirements. Section 465.019(2)(c), F.S.

<sup>4</sup> See The Board of Pharmacy, available at <http://floridasparmacy.gov/the-board/> (Last visited March 18, 2014).

<sup>5</sup> Rule, 64B16-27.420, F.A.C.

- 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 licensed pharmacist is responsible for acts performed by persons under his or her supervision.<sup>6</sup>

The Board specifies by rule<sup>7</sup> 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.<sup>8</sup>

#### *Pharmacist-to-Technician Ratios*

Prior to 2008, there was no statutory limit on the number of pharmacy technicians that a pharmacist could supervise. In 2008, the Florida Legislature passed CS/CS 1360, which amended s. 465.014, F.S., to place a cap on the number pharmacy technicians that a pharmacist may supervise.

The law provides that a pharmacist may not supervise more than one registered pharmacy technician, unless otherwise permitted by the guidelines adopted by the Board, and requires the guidelines to include circumstances under which a pharmacist may supervise more than one, but not more than three pharmacy technicians.<sup>9</sup>

The guidelines established by the Board require a prescription department manager or consultant pharmacist to submit a written request to the Board to supervise more than one pharmacy technician.<sup>10</sup> The written request must include a brief description of the workflow needs that justify the ratio request, which must include the operating hours of the pharmacy, and the number of pharmacists, registered interns, and registered pharmacy technicians employed by the pharmacy.<sup>11</sup> The guidelines provide that such requests shall be reviewed and pre-approved by the Board.<sup>12</sup> To date, the Board has never denied a request to supervise more than one pharmacy technician.<sup>13</sup>

---

<sup>6</sup> Rule 64B16-27.1001(7), F.A.C.

<sup>7</sup> *Supra* fn. 5.

<sup>8</sup> *Id.*

<sup>9</sup> Section 465.014, F.S.

<sup>10</sup> Rule 64B16-27.410, F.A.C.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> E-mail from Marco Paredes, Legislative Affairs Director, Florida Department of Health, to Health and Human Services Committee staff (Mar. 28, 2014, 12:13 EST) (on file with committee staff).

Florida is among 18 states allowing a maximum 1:3 pharmacist-to-pharmacist technician ratio.<sup>14</sup> Seventeen states and the District of Columbia have no limits; 8 states allowed a maximum 1:2 pharmacist-to-pharmacist 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.<sup>15</sup> Some states require that higher ratios are contingent on certification or licensure of technicians, or other quality assurance measures.<sup>16</sup>

As of February 2014, 4,436 Florida licensed pharmacies had a ratio of three pharmacy technicians to one pharmacist, and 580 pharmacies had a ratio of two pharmacy technicians to one pharmacist.<sup>17</sup>

### Pharmacy Technician Workforce Demand

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.<sup>18</sup>

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 20% between 2012 and 2022.<sup>19</sup> According to the October 2013 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.”<sup>20</sup>

In January 2014, there were approximately 2,149 unemployed pharmacy technicians and approximately 1,135 publicly advertised job openings for pharmacy technicians in Florida, meaning Florida had an oversupply of pharmacy technicians by approximately 1,083 in the month of January.<sup>21</sup>

At the end of the first quarter of Fiscal Year 2013-2014, there were 44,492 registered pharmacy technicians, 31,445 licensed pharmacists, and 9,179 licensed pharmacies in Florida.<sup>22</sup>

### Vaccine Administration

---

<sup>14</sup> Presentation by Kevin N. Nicholson, RPh, JD; National Association of Chain Drug Stores, “Standardized Pharmacy Technician Education and Training,” May 2009, available at [http://www.nabp.net/events/assets/AnnualMtgTechTrainStd\(Nicholson\).pdf](http://www.nabp.net/events/assets/AnnualMtgTechTrainStd(Nicholson).pdf) (last visited January 30, 2014).

<sup>15</sup> Indiana changed its ratio July 2, 2012. See Indiana Code, 25-26-13-18. See also, Idaho Board of Pharmacy Rule 251, Pharmacy Technicians.

<sup>16</sup> 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 January 30, 2014).

<sup>17</sup> Department of Health, Bill Analysis of HB 323, January 31, 2014, on file with committee staff.

<sup>18</sup> “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](http://bhpr.hrsa.gov/healthworkforce/reports/pharmaciststudy.pdf) (last visited January 30, 2014).

<sup>19</sup> 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 January 30, 2014).

<sup>20</sup> Aggregate Demand Index, Supported by Pharmacy Manpower Project Inc., available at: <http://www.pharmacymanpower.com/about.jsp> (last visited January 30, 2014).

<sup>21</sup> Presentation by Rebecca Rust, Director of the Bureau of Labor Market Statistics of the Florida Department of Economic Opportunity, January 15, 2014, available at:

[http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&Committeeld=2786&Session=2014&DocumentType=Meeting Packets&FileName=schw1-15-14.pdf](http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&Committeeld=2786&Session=2014&DocumentType=Meeting%20Packets&FileName=schw1-15-14.pdf) (last visited February 3, 2014).

<sup>22</sup> Department of Health, Bill Analysis of HB 323, January 31, 2014, on file with committee staff.

Section 465.189, F.S., authorizes a pharmacist to administer the influenza and pneumococcal vaccines in accordance with guidelines of the Centers for Disease Control and Prevention (CDC) for each recommended immunization or vaccine, and under the established protocol of a licensed physician.

This section also authorizes a pharmacist to administer the shingles vaccine in accordance with the guidelines of the CDC and under the established protocol of a licensed physician. In addition, the pharmacist must have a prescription from a physician to administer the shingles vaccine.

### Prescriptions

Section 456.42, F.S., requires written prescriptions for controlled substances to have the quantity of the drugs in both textual and numeric formats, and be dated with the abbreviated month written out on the face of the prescription. Further, the written prescription must be either written on a standardized counterfeit-proof prescription pad or be electronically prescribed<sup>23</sup> as defined in s. 408.0611, F.S.

Section 893.04, F.S., requires each written prescription for a controlled substance listed in Schedule II, Schedule III, or Schedule IV to include both a written and a numerical notation of the quantity of the prescription, on the face of the prescription, and a notation of the date with the abbreviated month written out on the face of the prescription.

### **Effect of the Bill**

The bill amends s. 465.004, F.S., to revise the composition of the Board by increasing the number of pharmacists representing community and institutional class II pharmacies from one to two members in each category.

The bill amends s. 465.014, F.S., to allow a pharmacist to supervise more than one pharmacy technician if authorized under guidelines established by the Board, and removes the statutory cap limiting supervision to three pharmacy technicians if approved by the board under its adopted guidelines.

The bill amends s. 465.189, F.S., to authorize pharmacists to administer the meningococcal vaccine under physician protocol and remove the requirement for a pharmacist to have a prescription from a physician to administer the shingles vaccine.

The bill amends s. 456.42, F.S., and s. 893.04, F.S., to require the date on a written prescription for a controlled substance to be in a numeric, month/day/year format; have the abbreviated month written out; or have the month written out in whole.

---

<sup>23</sup> Section 408.0611(2)(a), F.S., “electronic prescribing” means, at a minimum, the electronic review of the patient’s medication history, the electronic generation of the patient’s prescription, and the electronic transmission of the patient’s prescription to a pharmacy.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill will have an indeterminate, insignificant negative impact on DOH, associated with the cost of rule-making, which can be absorbed within existing resources.<sup>24</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

---

<sup>24</sup> *Supra* fn. 22.