

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 14, 1998 Revised: \_\_\_\_\_

Subject: Pharmacy Practice

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Munroe</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

This bill eliminates the variable dispensing fee for prescription drugs under the Medicaid program. The bill revises the definition of the practice of pharmacy to include other pharmaceutical care services and research and to authorize a pharmacist to administer immunizations under a protocol with a supervisory medical physician or osteopathic physician.

This bill substantially amends sections 409.908 and 465.003, Florida Statutes.

**II. Present Situation:**

Chapter 465, F.S., provides for the regulation of the practice of pharmacy by the Board of Pharmacy within the Department of Health. Under the chapter, the Board of Pharmacy may adopt rules relating to pharmacies as are necessary to protect the public health, safety, and welfare. Such rules shall include: general drug safety measures; minimum standards for the physical facilities of pharmacies; safe storage of floor-stock drugs; functions of a pharmacist in an institutional pharmacy, consistent with the size and scope of the pharmacy; procedures for the safe storage of and handling of radioactive drugs; procedures for the distribution and disposition of medicinal drugs upon the change of ownership or closing of the pharmacy; and minimum equipment which a pharmacy must at all times possess to fill prescriptions properly. The chapter provides definitions for the practice of pharmacy.

Chapter 409, F.S., provides for the administration of the Medicaid program by the Agency for Health Care Administration. Section 409.908(14), F.S., limits the reimbursement of Medicaid providers of prescribed drugs to the least of the amount of billed by the provider, the provider's usual and customary charge, or the Medicaid maximum allowable fee established by the agency, plus a dispensing fee. The Agency for Health Care Administration is directed to implement a

variable dispensing fee for payments for prescribed medicines while ensuring continued access for Medicaid recipients. The variable dispensing fee may be based upon, but not limited to, either or both the volume of prescriptions dispensed by a specific pharmacy provider and the volume of prescriptions dispensed to an individual recipient. According to staff at the Agency for Health Care Administration, the variable fee as would be implemented includes: the first eight prescriptions a recipient receives each month would incur the pharmacist's fee of \$4.23 per prescription, starting with the ninth prescription, the fee would be reduced to \$3.15. The targeted savings, if the variable dispensing fee for Medicaid prescribed drug services was implemented is \$6,174,066. The Florida Pharmacy Association filed a motion for preliminary injunction in the United States District Court in North Florida against the Florida Medicaid program on August 26, 1997 to prevent the implementation of the variable dispensing fee and at a hearing on October 27, 1997, arguments were heard by a federal judge. The court has not issued a ruling on this case and has directed the Agency for Health Care Administration not to pursue the implementation of the variable dispensing fee without permission of the court. The Agency for Health Care Administration has not taken any action to develop rules to implement the variable dispensing fee.

### **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 409.908, F.S., relating to the reimbursement of Medicaid providers, to delete a requirement that the Agency for Health Care Administration implement a variable dispensing fee for prescribed medicine for Medicaid recipients.

**Section 2.** Amends s. 465.003(12), F.S., providing a definition of the "practice of the profession of pharmacy," to expand the definition to include any other pharmaceutical care services and research incidental to or forming a part of the pharmaceutical profession. "Other pharmaceutical services" means the evaluation and monitoring of the patient's health as it relates to drug therapy and assisting the patient in the management of his or her drug therapy, and includes the assessment of the patient's drug therapy and communication regarding the drug therapy with the patient and the patient's prescribing health care provider who is a licensed medical physician, osteopathic physician, podiatrist, or dentist, or the provider's agent or other persons specifically authorized by the patient. The definition is revised to authorize a pharmacist to administer immunizations within the framework of an established protocol under a supervisory practitioner who is either a licensed medical physician or a licensed osteopathic physician or by a written agreement with a public health unit. The decision by a supervisory practitioner to enter into a protocol, is a professional decision of that practitioner and no person may interfere with a supervisory practitioner's decision as to whether to enter into a protocol. A pharmacist may not enter into a protocol that is to be performed while acting as an employee without approval of the owner of the pharmacy.

**Section 3.** Provides an effective date of July 1, 1998.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, section 18 of the State Constitution.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, subsections 24(a) and (b) of the State Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, subsection 19(f) of the State Constitution.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Agency for Health Care Administration estimates a potential savings of \$6,174,066, if the variable dispensing fee were implemented. This bill would eliminate this potential savings.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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