

By the Committees on Fiscal Policy; Health, Aging and Long-Term Care; and Senators Lee, Brown-Waite, Silver, Clary, Latvala, Saunders, Kurth and Cowin

309-2164D-00

1 A bill to be entitled
 2 An act relating to delivery of health care
 3 services; creating a pharmaceutical expense
 4 assistance program; providing eligibility;
 5 prescribing duties of the Agency for Health
 6 Care Administration and other entities;
 7 providing for rules; requiring a report;
 8 prescribing prerequisites that drug
 9 manufacturers must meet in order for their drug
 10 products to be covered under the program;
 11 requiring pharmacies that participate in the
 12 program or in Medicaid to agree to limitations
 13 on compensation; providing for certain
 14 professional regulatory boards to adopt rules
 15 to discourage their respective practitioners
 16 from accepting certain types of compensation
 17 from pharmaceutical manufacturers; requiring
 18 disclosure of certain information relating to
 19 such compensation; providing legislative
 20 intent; providing appropriations; providing an
 21 effective date.

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

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 25 Section 1. Pharmaceutical expense assistance.--
 26 (1) PROGRAM ESTABLISHED.--There is established a
 27 program to provide pharmaceutical expense assistance to
 28 certain low-income elderly individuals.
 29 (2) ELIGIBILITY.--Eligibility for the program is
 30 limited to those individuals who qualify for limited
 31 assistance under the Florida Medicaid program as a result of

1 being dually eligible for both Medicare and Medicaid, but
2 whose limited assistance or Medicare coverage does not include
3 any pharmacy benefit. Specifically eligible are low-income
4 senior citizens who:
5 (a) Are Florida residents age 65 and over;
6 (b) Have an income between 90 and 120 percent of the
7 federal poverty level;
8 (c) Are eligible for both Medicare and Medicaid;
9 (d) Are not enrolled in a Medicare health maintenance
10 organization that provides a pharmacy benefit; and
11 (e) Request to be enrolled in the program.
12 (3) BENEFITS.--Medications covered under the
13 pharmaceutical expense assistance program are those covered
14 under the Medicaid program in section 409.906(20), Florida
15 Statutes. Monthly benefit payments shall be limited to \$80 per
16 program participant. Participants are required to make a
17 10-percent coinsurance payment for each prescription purchased
18 through this program.
19 (4) ADMINISTRATION.--The pharmaceutical expense
20 assistance program shall be administered by the Agency for
21 Health Care Administration, in consultation with the
22 Department of Elderly Affairs.
23 (a) The Agency for Health Care Administration and the
24 Department of Elderly Affairs shall develop a single-page
25 application for the pharmaceutical expense assistance program.
26 (b) The Agency for Health Care Administration shall,
27 by rule, establish for the pharmaceutical expense assistance
28 program eligibility requirements, limits on participation,
29 benefit limitations, a requirement for generic-drug
30 substitution, and other program parameters comparable to those
31 of the Medicaid program.

1 (c) By January 1 of each year, the Agency for Health
2 Care Administration shall report to the Legislature on the
3 operation of the program. The report shall include information
4 on the number of individuals served, use rates, and
5 expenditures under the program. The report shall also address
6 the impact of the program on reducing unmet pharmaceutical
7 drug needs among the elderly and recommend programmatic
8 changes.

9 (5) NONENTITLEMENT.--The pharmaceutical expense
10 assistance program established by this section is not an
11 entitlement.

12 (6) PHARMACEUTICAL MANUFACTURER PARTICIPATION.--In
13 order for a drug product to be covered under this program, the
14 product's manufacturer shall provide a rebate equal to an
15 amount consistent with the Medicaid rebate of 15.1 percent of
16 Average Manufacturer Price (AMP) for innovator/brand name
17 products and noninnovator/generic products.

18 Section 2. Medicare prescription discount program.--As
19 a condition of participation in the Florida Medicaid program
20 or the pharmaceutical expense assistance program, a pharmacy
21 must agree that the charge to any Medicare beneficiary showing
22 a Medicare card when presenting a prescription shall be no
23 greater than the amount paid to that pharmacy for ingredients
24 and dispensing under the Florida Medicaid program, plus 4
25 percent of the Medicaid payment for the ingredients of the
26 prescription.

27 Section 3. The Legislature recognizes that the state
28 has a compelling interest in maintaining the integrity of
29 health care professions. The Legislature finds that physicians
30 and other health care practitioners have a fiduciary
31 responsibility to act in the best interests of their patients,

1 who place their trust in and are dependent on the professional
2 expertise of health care practitioners when seeking their
3 services. The Legislature finds that the nature of the
4 relationship between the patient and the health care
5 practitioner and the underlying trust in that relationship
6 prompt the need for guidelines to avoid the receipt by health
7 care practitioners of gifts, payments, subsidies, or other
8 financial inducements from pharmaceutical manufacturers which
9 adversely shape the health care practitioners' independent
10 professional judgment and which undermine their patients'
11 access to treatment, course of care, and clinical outcomes.

12 (1) The Board of Medicine, the Board of Osteopathic
13 Medicine, the Board of Podiatric Medicine, and the Board of
14 Dentistry shall adopt, by rule, guidelines to discourage
15 health care practitioners under their respective jurisdictions
16 from accepting gifts, payments, subsidies, or other financial
17 inducements from pharmaceutical manufacturers which could
18 undermine the practitioners' independent professional
19 judgment. Any gift, payment, or other financial inducement
20 that a health care practitioner receives from a pharmaceutical
21 manufacturer should primarily entail a benefit to his or her
22 patients and should not be of substantial value. For purposes
23 of this section, a gift, payment, subsidy, or other financial
24 inducement does not include complimentary samples of medicinal
25 drugs.

26 (2) To ensure that patients are adequately informed
27 about their care and to assist the health care practitioner in
28 avoiding the receipt of gifts, payments, subsidies, or other
29 financial inducements from pharmaceutical manufacturers which
30 are unjustified, the Board of Medicine, the Board of
31 Osteopathic Medicine, the Board of Podiatric Medicine, and the

1 Board of Dentistry each shall require each health care
2 practitioner under its regulatory jurisdiction to disclose to
3 the Department of Health, as a condition of license renewal,
4 the receipt of gifts, payments, subsidies, or other financial
5 inducements from pharmaceutical manufacturers which conflict
6 with that health care practitioner's duty of loyalty to his or
7 her patients.

8 Section 4. For fiscal year 2000-2001, the sum of \$15
9 million is appropriated from the General Revenue Fund to the
10 Agency for Health Care Administration for the purpose of
11 implementing the pharmaceutical expense assistance program
12 effective January 1, 2001. Rebates collected under subsection
13 (6) of section 1 of this act shall be used to help finance the
14 program.

15 Section 5. For fiscal year 2000-2001, the sum of
16 \$250,000 is appropriated from the General Revenue Fund to the
17 Agency for Health Care Administration to administer the
18 pharmaceutical expense assistance program.

19 Section 6. This act shall take effect July 1, 2000.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS/SB 940

4 Creates a pharmaceutical expense assistance program (formerly
5 the catastrophic pharmaceutical expense assistance program)
6 for individuals who qualify for limited assistance under
7 Medicaid as a result of being dually eligible for both
8 Medicaid and Medicare and are a Florida resident 65 years of
9 age or older, have incomes between 90 and 120 percent of the
10 federal poverty level, are enrolled in a Medicare Health
11 Maintenance Organization that does not provide a pharmacy
12 benefit, and request to be enrolled in the program.

13 Medications covered are those covered under the Medicaid
14 program and monthly benefit payments are limited to \$80 per
15 program participant. Participants are required to make a 10
16 percent coinsurance payment for each prescription purchased
17 through the program.

18 Requires manufacturer's to provide a rebate equal to an amount
19 consistent with the Medicaid rebate of 15.1 percent of Average
20 Manufacturer Price (AMP) for innovator/brand name products and
21 non-innovator/generic products.

22 Changes the reimbursement amount to a pharmacy for a Medicare
23 beneficiary to be no greater than the Medicaid rate for
24 ingredients and dispensing fees plus 4 percent (from 2.5
25 percent) of the Medicaid payment for the ingredients of the
26 prescription.

27 Changes the appropriations and provides an appropriation of
28 \$15 million from the General Revenue Fund to the Agency for
29 Health Care Administration to implement the pharmaceutical
30 expense assistance program effective January 1, 2001 and
31 \$250,000 from the General Revenue Fund to the agency to
32 administer the program. Provides that rebates collected under
33 this program are to be used to help finance the program.