

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 Health Regulation Committee

BILL: CS/SB 1360

INTRODUCER: Health Regulation Committee and Senator Peaden

SUBJECT: Pharmacy Technicians

DATE: March 14, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe / Stovall	Wilson	HR	Fav/CS
2.	_____	_____	FT	_____
3.	_____	_____	HA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill revises pharmacy licensure by endorsement requirements to delete the requirement that an applicant for licensure as a pharmacist must have obtained a passing score on the licensure examination not more than 12 years prior to application.

The bill also makes changes in the regulatory provisions for pharmacy technicians. Pharmacy technicians must be registered. The Board of Pharmacy must register pharmacy technician applicants who have earned a high school diploma or GED, are at least 18 years of age, have remitted a registration fee, have completed an application form, have remitted a nonrefundable application fee, and otherwise meet registration requirements. A person whose license to practice pharmacy has been suspended, denied, or restricted, is prohibited from registering as a pharmacy technician.

Effective January 1, 2011, an applicant to become a registered pharmacy technician must also have completed an approved pharmacy technician training program. The bill specifies that a registered pharmacy technician registered before January 1, 2011, who has worked as a pharmacy technician for a minimum of 1,500 hours under a licensed pharmacist's supervision or

who has received certification as a pharmacy technician from an approved program is exempt from the requirement to complete an initial training program for purposes of registration.

The bill exempts from the registration requirements pharmacy technician students obtaining practical training and persons licensed as pharmacy interns. The bill specifies registration renewal requirements for pharmacy technicians. Grounds for discipline against an applicant for registration as a pharmacy technician or a registered pharmacy technician are specified.

Effective January 1, 2010, it will be unlawful for a person who is not registered as a pharmacy technician, or who is not otherwise exempt, to perform the functions of a registered pharmacy technician or hold herself or himself out as a pharmacy technician.

This bill amends sections 465.0075, 465.014, 465.015, 465.019, 465.0196, and 465.0197, Florida Statutes, and creates one undesignated section of law.

II. Present Situation:

Chapter 465, F.S., governs the practice of pharmacy. The Board of Pharmacy (board) within the Department of Health (DOH) regulates the practice of pharmacy.

Pharmacist Licensure and Licensure by Endorsement

Section 465.007, F.S., provides requirements for licensure by examination for persons who wish to practice pharmacy. Applicants must complete the application form and submit to the DOH an examination fee no greater than \$100 plus the actual cost to the department for purchase of portions of the examination from the National Association of Boards of Pharmacy or a similar national organization. Pursuant to s. 465.007(1)(b) and (c), F.S., the DOH will examine any applicant wishing to practice pharmacy who the board certifies: is 18 years of age or older; has received a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education or has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States and has also demonstrated proficiency in English by passing both the Test of English as a Foreign Language and the Test of Spoken English; and has completed an internship program approved by the board. In addition, the board must certify that a graduate of a foreign school or college of pharmacy has also completed a minimum of 500 hours of supervised work in Florida under a licensed pharmacist and has passed the board-approved Foreign Pharmacy Graduate Equivalency Examination. After the board has certified that applicants have successfully met the requirements in s. 465.007(1)(b) and (c), F.S., the DOH must issue a license to practice pharmacy to any applicant who successfully completes the examination. The pharmacy licensure examination also tests applicants' knowledge of Florida law relating to the practice of pharmacy.

Licensure by endorsement is a licensing procedure that allows an out-of-state practitioner who holds an active license in a state which has licensing requirements substantially equivalent to, or more stringent than, those in the state in which the practitioner is seeking licensure to obtain a license without meeting all of the licensure requirements for a person who is obtaining licensure for the first time. Section 465.0075, F.S., requires persons seeking to practice pharmacy by

obtaining licensure by endorsement to have successfully met the requirements in s. 465.007(1)(b) and (c), F.S., and to have taken the required licensure examination not more than 12 years prior to application. Additionally, the applicants must submit evidence of the active licensed practice of pharmacy in another jurisdiction for 2 of the immediately preceding 5 years or evidence of successful completion of board-approved postgraduate training, a board-approved clinical competency examination within 1 year immediately preceding application for licensure, or completion of an internship within 2 years immediately preceding application. All pharmacy applicants seeking licensure by endorsement must obtain a passing score on the pharmacy jurisprudence portions of the board-approved licensure examination.

Pharmacy Technicians

Section 465.014, F.S., specifies tasks and functions of pharmacy technicians. A person other than a Florida-licensed pharmacist or pharmacy intern may not engage in the practice of pharmacy, except that a pharmacist may delegate to nonlicensed pharmacy technicians those duties, tasks, and functions which do not fall within the definition of the practice of the profession of pharmacy. The acts, which are delegated to a pharmacy technician by a pharmacist, must be performed under the direct supervision of a licensed pharmacist who is responsible for all such acts performed by persons under the pharmacist's supervision. Under the supervision of a pharmacist, a pharmacy technician may initiate or receive communications with a practitioner or his or her agent on behalf of a patient regarding prescription refill authorization requests. A Florida-licensed pharmacist may not supervise more than one pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board must establish guidelines, which must be followed by licensed pharmacists and permitted pharmacies in determining the circumstances under which a licensed pharmacist may supervise more than one, but not more than three, pharmacy technicians.¹

Pharmacy technicians may receive informal on-the-job training or formal training offered by employers. In 2002, formal training was available in about 247 schools and training institutions in 42 states that offered a range of credentials to persons wishing to function as pharmacy technicians.² The National Community Pharmacists Association³ represents the pharmacist owners, managers, and employees of more than 23,000 independent community pharmacies across the United States. The American Society of Health-System Pharmacists accredits technician training programs and requires programs to have a minimum of 600 contact hours and a minimum duration of 15 weeks.⁴ There has been no consensus on national training standards and since 2002 a group of pharmacy associations, in conjunction with the Accreditation Council for Pharmaceutical Education (ACPE), has been engaged in the development of national

¹ See Rule 64B16-27.420, Florida Administrative Code, which authorizes the Board of Pharmacy to approve a specific pharmacy's utilization of pharmacy technicians in a ratio that is higher than one pharmacist per technician up to a maximum of one pharmacist per three technicians.

² "White Paper on Pharmacy Technicians 2002: Needed changes can no longer wait," *American Journal of Health-System Pharmacists* 2003:60:37-51.

³ For additional information, see the website for the National Community Pharmacists Association at <http://www.ncpanet.org/> (Last visited on March 14, 2008).

⁴ *Supra* 2. For additional information, see the website for the American Society of Health-System Pharmacists at: <http://www.ashp.org/technician/accreditation.cfm?cfid=16071620&CFToken=44711416> (Last visited on March 14, 2008). The publication, ASHP ACCREDITATION STANDARD FOR PHARMACY TECHNICIAN TRAINING PROGRAMS may be viewed at http://www.ashp.org/s_ashp/docs/files/RTP_TechStandards.pdf (Last visited March 14, 2008).

standards and an accreditation process for pharmacy technician education training.⁵ The ACPE establishes standards and criteria for the accreditation of professional degree programs in pharmacy and continuing pharmacy education providers. In January 2005, the ACPE accepted a strategic plan to incorporate feedback from various stakeholders regarding pharmacy education. Currently, the ACPE does not accredit training programs for pharmacy technicians.

III. Effect of Proposed Changes:

Section 1. Names the act, “The Beth Hippely Memorial Prescription Drug Safety Act.”

Section 2. Amends s. 465.0075, F.S., relating to pharmacy licensure by endorsement, to delete the requirement that an applicant for licensure as a pharmacist must have obtained a passing score on the licensure examination not more than 12 years prior to application.

Section 3. Amends s. 465.014, F.S., to clarify that a pharmacist may delegate certain tasks to registered pharmacy technicians. It changes the term “pharmacy technicians” to “registered pharmacy technicians,” conforming to changes in the bill, which require the registration of pharmacy technicians.

Any person who wishes to work as a pharmacy technician in Florida must register with the board by filing an application on a form furnished by the board. The board must register each applicant who has: remitted a registration fee no greater than \$50 every 2 years as set by the board; completed the application form; and remitted a nonrefundable application fee no greater than \$50 as set by the board. Pharmacy technician applicants must have earned a high school diploma or GED and be at least 18 years of age. A person whose license to practice pharmacy has been denied, suspended, or restricted for disciplinary purposes is not eligible to be registered as a pharmacy technician.

The bill exempts from the pharmacy technician registration requirements:

- A pharmacy technician student who is enrolled in a pharmacy technician training program that is accredited by the National Community Pharmacy Association, the American Society of Health-System Pharmacists, any other national pharmacy association training program governed by the Department of Education, or another pharmacy technician training program approved by the board for the purpose of obtaining practical training. A pharmacy technician student must wear identification that indicates his or her student status when performing the functions of a pharmacy technician.
- A person licensed by Florida as a pharmacy intern may be employed as a registered pharmacy technician without paying a registration fee or filing an application with the board to register as a pharmacy technician.

A pharmacy technician must, as a condition of registration renewal, complete 20 hours of continuing education courses approved by the board or the Accreditation Council for Pharmaceutical Education, biennially. Four hours of the continuing education must be via live

⁵ “Invitation to Comment: Education and Training of Pharmacy Technicians” 2003 *The American Council on Pharmaceutical Education*. The American Council on Pharmaceutical Education changed its name to the Accreditation Council for Pharmacy Education in 2003.

presentation and 2 hours must be related to the prevention of medication errors and pharmacy law.

The board must adopt rules that require each registration issued by the board to a pharmacy technician to be displayed so that it is available to the public and to facilitate inspection by the DOH. The board is authorized to adopt other rules to administer the pharmacy technician registration requirements. The bill authorizes the board to deny registration, or take disciplinary action, as applicable, against any applicant for registration as a pharmacy technician or registered pharmacy technician who has committed an act that constitutes grounds for discipline or has committed an act that constitutes a substantial violation of the general regulatory provisions of ch. 456, F.S., or the pharmacy practice act, which occurred before the applicant or registrant was registered as a pharmacy technician.

Section 4. Effective January 1, 2011, s. 465.014, F.S., is amended to require that an applicant to be registered as a pharmacy technician must also have completed a pharmacy technician training program accredited by the National Community Pharmacists Association, the American Society of Health-System Pharmacists, the Department of Education, or another program approved by the board. In addition, this section specifies that any registered pharmacy technician who is registered pursuant to law before January 1, 2011, who has worked as a pharmacy technician for a minimum of 1,500 hours under the supervision of a licensed pharmacist, or who received certification as a pharmacy technician by the Pharmacy Technician Certification Board or a certification program approved by the National Commission for Certifying Agencies is exempt from the registration requirement to complete a pharmacy technician training program. The board must adopt rules for the documentation that the registered pharmacy technician must submit to verify compliance with this exemption. This section is set to expire December 31, 2015.

Section 5. Effective January 1, 2010, s. 465.015, F.S., relating to violations and penalties, is amended to make it unlawful for a person who is not registered as a pharmacy technician, or who is not otherwise exempt from the requirement to register, to perform the functions of a registered pharmacy technician or otherwise hold himself or herself out to others as a person who is registered to perform the functions of a registered pharmacy technician in Florida.

Section 7. Effective January 1, 2010, s. 465.019, F.S., relating to institutional pharmacies, is amended to change a reference to “pharmacy technicians” to “registered pharmacy technicians,” conforming to changes in the bill, which require the registration of pharmacy technicians.

Section 8. Effective January 1, 2010, s. 465.0196, F.S., relating to special pharmacy permits, is amended to change a reference to “pharmacy technicians” to “registered pharmacy technicians,” conforming to changes in the bill, which require the registration of pharmacy technicians.

Section 9. Amends s. 465.0197, F.S., relating to special pharmacy permits, is amended to change a reference to “pharmacy technicians” to “registered pharmacy technicians,” conforming to changes in the bill, which require the registration of pharmacy technicians.

Section 10. Provides that except as otherwise expressly provided in the bill, the bill takes effect upon becoming a law.

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 Florida 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, Section 24(a) and (b) of the Florida 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 Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

A person applying for registration to be a pharmacy technician will be subject to a registration fee no greater than \$50 every 2 years as set by the board and a nonrefundable application fee no greater than \$50 as set by the board.

B. Private Sector Impact:

Pharmacies that employ pharmacy technicians may indirectly incur higher costs to ensure compliance with the bill's registration requirements for pharmacy technicians.

C. Government Sector Impact:

In its fiscal analysis of similar legislation (SB 334), the DOH reports it will require eight full-time equivalent (FTE) positions and expenditures of \$750,207 during year 1 to implement the provisions of this bill. The DOH estimates there will be 30,000 applicants the first year, and 10,000 applicants the second year and each subsequent year. With the \$50 application and renewal fee, the DOH estimates trust fund revenue will be \$1.5 million in year 1, and \$500,000 in year 2. Expenses are estimated to exceed revenues by \$177,399 in year 2.

VI. Technical Deficiencies:

Line 98 refers to the National Community Pharmacy Association and line 146 refers to the National Community Pharmacists Association. Searches on the Internet for the National Community Pharmacy Association link to the National Community Pharmacists Association.

VII. Related Issues:

Section 9 in the bill takes effect immediately, so that internet pharmacies are required to use registered pharmacy technicians upon the act becoming law. Similar conforming sections in the bill provide for an effective date of January 1, 2010.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Regulation on March 12, 2008:

The committee substitute:

- Deletes the requirement that an applicant for licensure as a pharmacist through the licensure by endorsement provisions must have obtained a passing score on the licensure examination not more than 12 years prior to application,
- Changes the effective date of the requirement that a pharmacy technician must be registered from January 1, 2010, to effective immediately upon the act becoming a law. However the effective date establishing violations and penalties for a pharmacy technician not being registered is January 1, 2010 in the committee substitute.
- Deletes language in s. 465.014, F.S., that was added in the original bill to require that when a pharmacist supervised three registered technicians, at least one of them must be certified by the Pharmacy Technician Certification Board of any other certification approved by the National Commission for Certifying Agencies,
- Adds references to pharmacy technician training programs that are accredited by the National Community Pharmacists Association,
- Requires, effective January 1, 2011, an applicant to become registered as a pharmacy technician to complete a pharmacy technician training program, and provides for an exemption from this requirement for qualifying registered pharmacy technicians who were registered before the effective date of this additional requirement,
- Eliminates the January 1, 2010, effective date for the conforming language in s. 465.0197 related to internet pharmacy permits, and
- Deletes the appropriation.

B. Amendments:

None.