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 Committee on Rules

BILL:	CS/SB 630
INTRODUCER:	Health Policy Committee and Senators Perry and Baxley
SUBJECT:	Nonopioid Alternatives
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Tulloch	Cibula	JU	**Favorable**
3.	Looke	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 630 amends s. 456.44, F.S., to require the Department of Health (DOH) to develop and publish on its website an educational pamphlet regarding the use of nonopioid alternatives for the treatment of pain. The bill also requires a health care practitioner to, prior to treating a patient with anesthesia or a Schedule II opioid medication in a non-emergency situation: inform the patient of available nonopioid alternatives for the treatment of pain; discuss the advantages and disadvantages of the use of nonopioid alternatives; provide the patient with the pamphlet created by the DOH; and document any alternatives considered in the patient's record.

The bill provides an effective date of July 1, 2019.

II. Present Situation:

Opioid Abuse

Both nationally and in Florida, opioid addiction and abuse has become an epidemic. The Florida Department of Law Enforcement (FDLE) reported that, when compared to 2016, 2017 saw:

- 6,178 (8 percent more) opioid-related deaths;
- 6,932 (4 percent more) individuals died with one or more prescription drugs in their system;[1]

[1] The drugs were identified as either the cause of death or merely present in the decedent. These drugs may have also been mixed with illicit drugs and/or alcohol. These drugs were not necessarily opioids.

- 3,684 (4 percent more) individuals died with at least one prescription drug in their system that was identified as the cause of death;
- Occurrences of heroin increased by 3 percent and deaths caused by heroin increased by 1 percent;
- Occurrences of fentanyl increased by 27 percent and deaths caused by fentanyl increased by 25 percent;
- Occurrences hydrocodone increased by 6 percent while deaths caused by hydrocodone decreased by 8 percent;
- Occurrences of buprenorphine and deaths caused by buprenorphine increased by 19 percent.[2]

The federal Centers for Disease Control and Prevention (CDC) estimates that the nationwide cost of opioid misuse at $78.5 billion per year.[3]

History of the Opioid Crisis in Florida

"In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates."[4] "This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive."[5] Between the early 2000s and the early 2010s, Florida was infamous as the "pill mill capital" of the country. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the county.[6]

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.[7] "In 2016, the opioid prescription rate was 75 per 100 persons in Florida. This rate was down from a high of 83 per 100."[8]

As reported by the Florida Attorney General's Opioid Working Group,

> Drug overdose is now the leading cause of non-injury related death in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000

[2] FDLE, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2017 Annual Report* (Nov. 2018) http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2017-Annual-Drug-Report.aspx (last visited on Apr. 3, 2019).
[3] National Institute on Drug Abuse, *Opioid Overdose Crisis* (Rev. Jan. 2019), https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis (last visited on Apr. 3, 2019).
[4] *Id.*
[5] *Id.*
[6] Lizette Alvarez, *Florida Shutting 'Pill Mill' Clinics*, The New York Times (Aug. 31, 2011), *available at* http://www.nytimes.com/2011/09/01/us/01drugs.html (last visited on Apr. 3, 2019).
[7] *See* chs. 2009-198, 2010-211, and 2011-141, Laws of Fla.
[8] Attorney General's Opioid Working Group, *Florida's Opioid Epidemic: Recommendations and Best Practices*, 7 (March 1, 2019), *available at* https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf, (last visited on Apr. 3, 2019).

(63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).[9]

Early in 2017, the Center for Disease Control (CDC) declared the opioid crisis an epidemic. [10] Shortly thereafter, on May 3, 2017, Governor Rick Scott signed Executive Order 17-146 declaring the opioid epidemic a public health emergency in Florida.[11]

House Bill 21

In 2018, the Florida Legislature passed HB 21 (ch. 2018-13, L.O.F.) to combat the opioid crisis. HB 21:

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the length of prescriptions for Schedule II opioid medications to 3 days or up to 7 days if medically necessary;
- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

III. Effect of Proposed Changes:

CS/SB 630 amends s. 456.44, F.S., to establish legislative findings that every competent adult has the right of self-determination regarding healthcare decisions, including the right to refuse treatment with a Schedule II opioid controlled substance.

The bill requires the DOH to develop and publish on its website an educational pamphlet regarding the use of nonopioid alternatives for the treatment of pain. The pamphlet must include:

- Information on available nonopioid alternatives for the treatment of pain, including nonopioid medicinal drugs or drug products and nonpharmacological therapies; and
- The advantages and disadvantages of the use of nonopioid alternatives.

Additionally, the bill requires a health care practitioner, prior to providing anesthesia or ordering, administering, dispensing or prescribing a Schedule II opioid drug to a patient in a nonemergency situation, to:

- Inform the patient of available nonopioid alternatives for the treatment of pain, which may include nonopioid medicinal drugs or drug products, interventional procedures or treatments, acupuncture, chiropractic treatments, massage therapy, physical therapy, occupational therapy, or any other appropriate therapy as determined by the health care practitioner;

[9] *Id.*
[10] *See* Exec. Order No. 17-146, available at https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf.
[11] *Id.*

- Discuss the advantages and disadvantages of the use of nonopioid alternatives, including whether the patient is at a high risk of, or has a history of, controlled substance abuse or misuse and the patient's personal preferences;
- Provide the patient with the educational pamphlet described in paragraph (b); and
- Document the nonopioid alternatives considered in the patient's record.

The bill provides an effective date of July 1, 2019.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 630 may have an indeterminate negative fiscal impact on the DOH related to the development of the educational pamphlet but such impact would likely be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 456.44 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 Health Policy on April 1, 2019:
The CS eliminates the requirement that the DOH adopt in rule a voluntary nonopioid directive form and all related requirements placed on a health care practitioner. The CS instead requires the DOH to create and publish an educational pamphlet on its website regarding nonopioid alternatives for the treatment of pain. Additionally, the bill requires a health care practitioner to, prior to treating a patient with anesthesia or a Schedule II opioid medication in a non-emergency situation, inform the patient of available nonopioid alternatives for the treatment of pain, discuss the advantages and disadvantages of the use of nonopioid alternatives, provide the patient with the pamphlet created by the DOH, and document any alternatives considered in the patient's record.

B. Amendments:

None.