



Rick Scott
Governor

H. Frank Farmer, Jr., M.D., Ph.D.
State Surgeon General

STATE OF FLORIDA
DEPARTMENT OF HEALTH
DECLARATION OF PUBLIC HEALTH EMERGENCY

WHEREAS, pursuant to CS/CS/HB 7095, enacted as chapter 2011-141, Laws of Florida (the "Bill"), section 28, the Florida Legislature has made specific determinations.

WHEREAS, prescription drug overdose has been declared a public health epidemic by the United States Centers for Disease Control and Prevention.

WHEREAS, prescription drug abuse results in an average of seven deaths in this state each day.

WHEREAS, physicians in this state purchased more than 85 percent of the oxycodone and more than 93 percent of the methadone purchased by all practitioners in the United States in 2006.

WHEREAS, the Florida Department of Law Enforcement in December 2010 published its Drugs Identified In Deceased Persons by Florida Medical Examiners, Interim Report. Some general statewide trends for the first half of 2010 (January – June) from that Interim Report are listed below.

- a. The four most frequently occurring drugs found in decedents were Ethyl Alcohol (1,831), all Benzodiazepines (1,700 including 986 Alprazolam occurrences), Oxycodone (1,117), and Cocaine (603).
- b. The drugs that caused the most deaths were Oxycodone (715), all Benzodiazepines (597 – includes 439 deaths caused by Alprazolam), Methadone (336), Ethyl Alcohol (270), and Cocaine (250).
- c. The four drugs where more than 50% of the deaths in which these drugs were found were caused by Heroin (83.3%), Methadone (75.5%), Oxycodone (64.0%) and Fentanyl (52.5%).
- d. The prescription drugs (Benzodiazepines, Carisoprodol/Meprobamate, Zolpidem, and all Opioids excluding Heroin) tracked through this report continued to be found more often than illicit drugs in both lethal (87%) and non-lethal (78%) levels. Prescription drugs account for 81% of all drug occurrences in this report when Ethyl Alcohol is excluded.

- e. Occurrences of Oxycodone (10.9%) and Hydrocodone (4.1%) increased when compared with the last six months of 2009. Also, deaths caused by Oxycodone (63 more than July-December 2009) and Hydrocodone (10 more than July-December 2009) increased. Methadone occurrences decreased by 4.1% and deaths caused by Methadone also decreased by 1.2%.

WHEREAS, some physicians in this state dispense medically unjustifiable amounts of controlled substances to addicts and to people who intend to illegally sell the drugs.

WHEREAS, physicians in this state who have purchased large quantities of controlled substances may have significant inventory 30 days after the effective date of this act.

WHEREAS, 30 days after the effective date of the Bill, the only legal method for a dispensing practitioner to transfer controlled substances listed in Schedule II or Schedule III as provided in section 893.03, Florida Statutes, purchased for dispensing, is through the return or abandonment procedures at lines 2631-2636 of the Bill, or as authorized under section 465.0276, Florida Statutes.

WHEREAS, it is likely that the same physicians who purchase and dispense medically unjustifiable amounts of drugs will not legally dispose of the remaining inventory.

WHEREAS, the actions of such dispensing practitioners may result in substantial injury to the public health.

NOW FOR THESE REASONS, the Florida Legislature has directed the declaration of this Public Health Emergency and furthermore orders the following actions:

DECLARED, as a consequence of the Florida Legislature's findings and directions, and the federal declaration of a public health epidemic, there is a risk of substantial injury or harm from prescription drug overdose threatening Florida public health.

DECLARED, this Order is an exercise of the Police Power of the State of Florida.

DECLARED, after consultation with Governor Rick Scott and public health officials within the Department of Health, I, H. Frank Farmer, Jr., M.D., Ph.D., State Surgeon General and State Health Officer, pursuant to the authority vested in me under section 381.00315, Florida Statutes, do hereby determine that a public health emergency exists in the State of Florida. In order to respond to this emergency, the Department of Health is working closely with Florida Department of Law Enforcement and local law enforcement agencies, and committing all its agency resources to this effort.

DECLARED, within 2 days after the effective date of the Bill, in consultation with wholesale distributors as defined in section 499.003, Florida Statutes, the Department of Health shall identify dispensing practitioners who purchased or received more than an average of 2,000 unit doses of controlled substances listed in Schedule II or Schedule III as provided in section 893.03, Florida Statutes, per month in the previous 6 months, and shall identify the dispensing practitioners in that group who pose the greatest threat to the public health based on an assessment of:

- a. The risk of noncompliance described at lines 2621-2643 of the Bill.

- b. The purchase amounts.
- c. The manner of medical practice.
- d. Any other factor set by the State Health Officer.

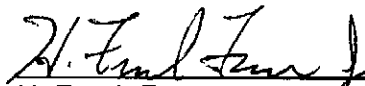
DECLARED, all dispensing practitioners who purchased or received more than an average of 2,000 unit doses of controlled substances listed in Schedule II or Schedule III as provided in section 893.03, Florida Statutes, per month in the previous 6 months shall make their premises open and available for inspection during regular business hours by the Department of Health for purposes of responding to this Public Health Emergency, beginning 2 days after the effective date of the Bill. Failure to so make premises open and available for inspection during regular business hours is a violation of this Department of Health order.

DECLARED, with respect to any dispensing practitioner identified by the Department of Health in accordance with the Bill and this Order, the following categories and classifications of Department of Health employees, in addition to their regular official duties, are designated and authorized (i) to enter and to inspect related establishments for the purpose of determining compliance with Part I of Chapter 499, Florida Statutes and rules adopted thereunder regarding any drug, and to take all other actions including but not limited to seeking inspection warrants therefor – all pursuant to sections 381.0012 and 499.051, Florida Statutes; and (ii) to make findings and probable cause determinations, to issue and rescind orders, to make petitions, and to condemn, and destroy and otherwise render drugs unsalable – all pursuant to section 499.06, Florida Statutes; and (iii) to make findings of cause or probable cause, to seize, detain and condemn adulterated or misbranded drugs, to give and remove warnings and notices, and to make petitions – all in accordance with section 499.062, Florida Statutes; and (iv) to administer oaths and to issue and serve subpoenas in accordance with section 499.002, Florida Statutes; and (v) to inventory and take possession of prescription drugs surrendered, relinquished, quarantined, detained or seized to or by, as applicable, the Department of Health to the extent necessary to implement the Bill: Drug Agents/Investigators.

DECLARED, to protect the public health, I order that Florida-licensed wholesale distributors and all Florida-licensed practitioners subject to the Bill's requirement to dispose, in the manner set forth in the Bill, of their controlled substance inventory and shall cooperate fully with Department of Health and law enforcement personnel in carrying out the actions set forth in the Bill.

In accordance with section 381.00315(1)(b), Florida Statutes, this Declaration shall remain in effect for 60 days unless amended or rescinded, or renewed with the concurrence of the Governor.

Executed this 1st day of July, 2011, in Department of Health Offices, Tallahassee, Leon County, Florida.



H. Frank Farmer, Jr., M.D., Ph.D.
State Surgeon General