

By Senator Crist

20-358-98

See HB

1 A bill to be entitled
2 An act relating to pharmacy practice; amending
3 s. 465.003, F.S.; defining the term "data
4 communication device"; revising the definition
5 of the term "practice of the profession of
6 pharmacy"; amending s. 465.017, F.S.; providing
7 additional persons and entities to whom records
8 relating to the filling of prescriptions and
9 the dispensing of medicinal drugs which are
10 maintained by a pharmacy may be furnished;
11 providing restrictions on such records when
12 transmitted through a data communication
13 device; amending ss. 465.014, 465.015,
14 465.0196, 468.812, and 499.003, F.S.;
15 conforming cross-references; providing an
16 effective date.

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

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20 Section 1. Subsections (4) through (11), (13), and
21 (14) of section 465.003, Florida Statutes, are renumbered as
22 subsections (5) through (12), (14), and (15), respectively,
23 present subsection (12) is renumbered as subsection (13) and
24 amended, and a new subsection (4) is added to that section, to
25 read:

26 465.003 Definitions.--As used in this chapter, the
27 term:

28 (4) "Data communication device" means an electronic
29 device that receives electronic information from one source
30 and transmits or routes it to another, including, but not
31 limited to, any bridge, router, switch, or gateway.

1 ~~(12)~~ (13) "Practice of the profession of pharmacy"
2 includes compounding, dispensing, and consulting concerning
3 contents, therapeutic values, and uses of any medicinal drug
4 and consulting concerning therapeutic values and interactions
5 of patent or proprietary preparations, whether pursuant to
6 prescriptions or in the absence and entirely independent of
7 such prescriptions or orders, and other related cognitive
8 services. The phrase also includes any other act, service,
9 operation, or transaction incidental to, or forming a part of,
10 any of the foregoing acts, requiring, involving, or employing
11 the science or art of any branch of the pharmaceutical
12 profession, study, or training, and shall expressly permit a
13 pharmacist to transmit information from persons authorized to
14 prescribe medicinal drugs to their patients.

15 Section 2. Subsection (2) of section 465.017, Florida
16 Statutes, is amended to read:

17 465.017 Authority to inspect.--

18 (2) Except as permitted by this chapter, and chapters
19 406, 409, 455, 499, and 893, records maintained by ~~in~~ a
20 pharmacy relating to the filling of prescriptions and the
21 dispensing of medicinal drugs shall not be furnished, except
22 upon the written authorization of the patient, to any person
23 other than ~~to~~ the patient for whom the drugs were dispensed,
24 ~~or her or his legal representative, or to the department~~
25 ~~pursuant to existing law,~~ or, in the event that the patient is
26 incapacitated or unable to request said records, her or his
27 spouse; to the department pursuant to existing law; to
28 treating practitioners and other pharmacists when, in the
29 professional judgment of the pharmacist, such release protects
30 or benefits the patient's health, well-being, or treatment;
31 or, to insurance carriers or other payors authorized by the

1 patient to receive such records. For purposes of this section,
2 records held in a pharmacy shall be considered held by the
3 owner of the pharmacy ~~except upon the written authorization of~~
4 ~~such patient.~~ Such records may be furnished in any civil or
5 criminal proceeding, upon the issuance of a subpoena from a
6 court of competent jurisdiction and proper notice to the
7 patient or her or his legal representative by the party
8 seeking such records. Such records or any part thereof, if
9 transmitted through a data communication device and not
10 directly between a pharmacy and a treating practitioner, may
11 not be accessed, used, or maintained by the operator or owner
12 of the data communication device unless specifically
13 authorized by this section.

14 Section 3. Section 465.014, Florida Statutes, is
15 amended to read:

16 465.014 Pharmacy technician.--No person other than a
17 licensed pharmacist or pharmacy intern may engage in the
18 practice of the profession of pharmacy, except that a licensed
19 pharmacist may delegate to nonlicensed pharmacy technicians
20 those duties, tasks, and functions which do not fall within
21 the purview of s. 465.003(13)(12). All such delegated acts
22 shall be performed under the direct supervision of a licensed
23 pharmacist who shall be responsible for all such acts
24 performed by persons under his or her supervision. A pharmacy
25 technician, under the supervision of a pharmacist, may
26 initiate or receive communications with a practitioner or his
27 or her agent, on behalf of a patient, regarding refill
28 authorization requests. No licensed pharmacist shall supervise
29 more than one pharmacy technician unless otherwise permitted
30 by the guidelines adopted by the board. The board shall
31 establish guidelines to be followed by licensees or permittees

1 in determining the circumstances under which a licensed
2 pharmacist may supervise more than one but not more than three
3 pharmacy technicians.

4 Section 4. Paragraph (c) of subsection (2) of section
5 465.015, Florida Statutes, is amended to read:

6 465.015 Violations and penalties.--

7 (2) It is unlawful for any person:

8 (c) To sell or dispense drugs as defined in s.
9 465.003(8)~~(7)~~ without first being furnished with a
10 prescription.

11 Section 5. Section 465.0196, Florida Statutes, is
12 amended to read:

13 465.0196 Special pharmacy permits.--Any person
14 desiring a permit to operate a pharmacy which does not fall
15 within the definitions set forth in s. 465.003~~(11)~~~~(10)~~(a)1.,
16 2., and 3. shall apply to the department for a special
17 pharmacy permit. If the board certifies that the application
18 complies with the applicable laws and rules of the board
19 governing the practice of the profession of pharmacy, the
20 department shall issue the permit. No permit shall be issued
21 unless a licensed pharmacist is designated to undertake the
22 professional supervision of the compounding and dispensing of
23 all drugs dispensed by the pharmacy. The licensed pharmacist
24 shall be responsible for maintaining all drug records and for
25 providing for the security of the area in the facility in
26 which the compounding, storing, and dispensing of medicinal
27 drugs occurs. The permittee shall notify the department
28 within 10 days of any change of the licensed pharmacist
29 responsible for such duties.

30 Section 6. Subsection (3) of section 468.812, Florida
31 Statutes, is amended to read:

1 468.812 Exemptions from licensure.--

2 (3) The provisions of this act relating to orthotics
3 or pedorthics do not apply to any licensed pharmacist or to
4 any person acting under the supervision of a licensed
5 pharmacist. The practice of orthotics or pedorthics by a
6 pharmacist or any of the pharmacist's employees acting under
7 the supervision of a pharmacist shall be construed to be
8 within the meaning of the term "practice of the profession of
9 pharmacy" as set forth in s. 465.003(13)(~~12~~), and shall be
10 subject to regulation in the same manner as any other pharmacy
11 practice. The Board of Pharmacy shall develop rules regarding
12 the practice of orthotics and pedorthics by a pharmacist. Any
13 pharmacist or person under the supervision of a pharmacist
14 engaged in the practice of orthotics or pedorthics shall not
15 be precluded from continuing that practice pending adoption of
16 these rules.

17 Section 7. Subsection (19) of section 499.003, Florida
18 Statutes, is amended to read:

19 499.003 Definitions of terms used in ss.

20 499.001-499.081.--As used in ss. 499.001-499.081, the term:

21 (19) "Legend drug," "prescription drug," or "medicinal
22 drug" means any drug, including, but not limited to, finished
23 dosage forms, or active ingredients subject to, defined by, or
24 described by s. 503(b) of the Federal Food, Drug, and Cosmetic
25 Act or s. 465.003(8)(~~7~~), s. 499.007(12), or s. 499.0122(1)(b)
26 or (c).

27 Section 8. This act shall take effect July 1 of the
28 year in which enacted.

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LEGISLATIVE SUMMARY

Provides additional persons and entities to whom records relating to the filling of prescriptions and the dispensing of medicinal drugs which are maintained by a pharmacy may be furnished, and provides restrictions on such records when transmitted through a data communication device. Provides and revises definitions, to conform. (See bill for details.)