

By the Committee on Health Care Standards & Regulatory Reform and Representatives Morroni, Safley, Crow, Bradley, Fischer, Brennan, Hafner, Jones and Wallace

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"; amending s. 465.017,
5 F.S.; providing additional persons and entities
6 to whom records relating to the filling of
7 prescriptions and the dispensing of medicinal
8 drugs that are maintained by a pharmacy may be
9 furnished; specifying authorized uses of
10 patient records by pharmacy owners; providing
11 restrictions on such records when transmitted
12 through a data communication device; amending
13 s. 465.019, F.S.; providing for certain
14 dispensing of medicinal drugs to patients in
15 emergency departments of certain hospitals;
16 amending ss. 465.014, 465.015, 465.0196,
17 468.812, and 499.003, F.S.; correcting cross
18 references, to conform; providing an effective
19 date.

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

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23 Section 1. Subsections (4) through (14) of section
24 465.003, Florida Statutes, are renumbered as subsections (5)
25 through (15), respectively, and a new subsection (4) is added
26 to said section, to read:

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

29 (4) "Data communication device" means an electronic
30 device that receives electronic information from one source
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1 and transmits or routes it to another, including, but not
2 limited to, any such bridge, router, switch, or gateway.
3 Section 2. Subsection (2) of section 465.017, Florida
4 Statutes, is amended to read:
5 465.017 Authority to inspect.--
6 (2) Except as permitted by this chapter, and chapters
7 406, 409, 455, 499, and 893, records maintained by ~~in~~ a
8 pharmacy relating to the filling of prescriptions and the
9 dispensing of medicinal drugs shall not be furnished, except
10 upon the written authorization of the patient, to any person
11 other than to the patient for whom the drugs were dispensed,
12 ~~or her or his legal representative, or to the department~~
13 ~~pursuant to existing law, or,~~ in the event that the patient is
14 incapacitated or unable to request said records, her or his
15 spouse; to the department pursuant to existing law; to
16 treating practitioners and other pharmacists when, in the
17 professional judgment of the pharmacist, such release protects
18 or benefits the patient's health, well-being, or treatment; or
19 to insurance carriers or other payors authorized by the
20 patient to receive such records. For purposes of this section,
21 records held in a pharmacy shall be considered owned by the
22 owner of the pharmacy. The pharmacy owner may use the records
23 of individual patients for health care purposes in the
24 practice of the profession of pharmacy, as defined in s.
25 465.003, and may use such records in the aggregate without
26 patient identification data, regardless of where such records
27 are held, for purposes reasonably related to the business and
28 practice of pharmacy ~~except upon the written authorization of~~
29 ~~such patient.~~ Such records may be furnished in any civil or
30 criminal proceeding, upon the issuance of a subpoena from a
31 court of competent jurisdiction and proper notice to the

1 patient or her or his legal representative by the party
2 seeking such records. Such records or any part thereof, if
3 transmitted through a data communication device and not
4 directly between a pharmacy and a treating practitioner, may
5 not be accessed, used, or maintained by the operator or owner
6 of the data communication device unless specifically
7 authorized by this section.

8 Section 3. Subsection (4) of section 465.019, Florida
9 Statutes, is amended to read:

10 465.019 Institutional pharmacies; permits.--

11 (4) Medicinal drugs shall be dispensed in an
12 institutional pharmacy to outpatients only when that
13 institution has secured a community pharmacy permit from the
14 department. However, an individual licensed to prescribe
15 medicinal drugs in this state may dispense up to a 24-hour
16 supply of a medicinal drug to any patient of an emergency
17 department of a hospital that operates a Class II
18 institutional pharmacy, provided the physician treating the
19 patient in such hospital's emergency department determines
20 that the medicinal drug is warranted and that community
21 pharmacy services are not readily accessible, geographically
22 or otherwise, to the patient. Such dispensing from the
23 emergency department shall be in accordance with the
24 procedures of the hospital. For any such patient for whom a
25 medicinal drug is warranted for a period to exceed 24 hours,
26 an individual licensed to prescribe such drug shall dispense a
27 24-hour supply of such drug to the patient and shall provide
28 the patient a prescription for such drug for use after the
29 initial 24-hour period. The board may adopt rules necessary to
30 carry out the provisions of this subsection.

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1 Section 4. Section 465.014, Florida Statutes, is
2 amended to read:

3 465.014 Pharmacy technician.--No person other than a
4 licensed pharmacist or pharmacy intern may engage in the
5 practice of the profession of pharmacy, except that a licensed
6 pharmacist may delegate to nonlicensed pharmacy technicians
7 those duties, tasks, and functions which do not fall within
8 the purview of s. 465.003(13)(~~12~~). All such delegated acts
9 shall be performed under the direct supervision of a licensed
10 pharmacist who shall be responsible for all such acts
11 performed by persons under his or her supervision. A pharmacy
12 technician, under the supervision of a pharmacist, may
13 initiate or receive communications with a practitioner or his
14 or her agent, on behalf of a patient, regarding refill
15 authorization requests. No licensed pharmacist shall supervise
16 more than one pharmacy technician unless otherwise permitted
17 by the guidelines adopted by the board. The board shall
18 establish guidelines to be followed by licensees or permittees
19 in determining the circumstances under which a licensed
20 pharmacist may supervise more than one but not more than three
21 pharmacy technicians.

22 Section 5. Paragraph (c) of subsection (2) of section
23 465.015, Florida Statutes, is amended to read:

24 465.015 Violations and penalties.--

25 (2) It is unlawful for any person:

26 (c) To sell or dispense drugs as defined in s.
27 465.003(8)(~~7~~)without first being furnished with a
28 prescription.

29 Section 6. Section 465.0196, Florida Statutes, is
30 amended to read:

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

18 Section 7. Subsection (3) of section 468.812, Florida
19 Statutes, is amended to read:

20 468.812 Exemptions from licensure.--

21 (3) The provisions of this act relating to orthotics
22 or pedorthics do not apply to any licensed pharmacist or to
23 any person acting under the supervision of a licensed
24 pharmacist. The practice of orthotics or pedorthics by a
25 pharmacist or any of the pharmacist's employees acting under
26 the supervision of a pharmacist shall be construed to be
27 within the meaning of the term "practice of the profession of
28 pharmacy" as set forth in s. 465.003(13)(~~12~~), and shall be
29 subject to regulation in the same manner as any other pharmacy
30 practice. The Board of Pharmacy shall develop rules regarding
31 the practice of orthotics and pedorthics by a pharmacist. Any

1 pharmacist or person under the supervision of a pharmacist
2 engaged in the practice of orthotics or pedorthics shall not
3 be precluded from continuing that practice pending adoption of
4 these rules.

5 Section 8. Subsection (19) of section 499.003, Florida
6 Statutes, is amended to read:

7 499.003 Definitions of terms used in ss.

8 499.001-499.081.--As used in ss. 499.001-499.081, the term:

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

15 Section 9. This act shall take effect July 1 of the
16 year in which enacted.

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