

By the Committee on Health Care Services and  
Representatives Johnson, Russell, C. Green, Kelly, Morroni and  
Harrington

1                                   A bill to be entitled  
2           An act relating to pharmacy practice; providing  
3           a short title; amending s. 465.003, F.S.;  
4           defining the term "data communication device";  
5           amending s. 465.016, F.S.; providing that using  
6           or releasing a patient's records except as  
7           authorized by chapter 455 or chapter 465, F.S.,  
8           constitutes a ground for disciplinary action  
9           against a pharmacist, for which there are  
10          penalties; amending s. 465.017, F.S.; providing  
11          additional persons to whom and entities to  
12          which records relating to the filling of  
13          prescriptions and the dispensing of medicinal  
14          drugs that are maintained by a pharmacy may be  
15          furnished; specifying authorized uses of  
16          patient records by pharmacy owners; providing  
17          restrictions on such records when transmitted  
18          through a data communication device; amending  
19          ss. 465.014, 465.015, 465.0196, 468.812, and  
20          499.003, F.S.; correcting cross references, to  
21          conform; providing an effective date.

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

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25           Section 1. This act may be cited as the "Pharmacy  
26 Patient Privacy Act of 1999."

27           Section 2. Subsections (4) through (14) of section  
28 465.003, Florida Statutes, are renumbered as subsections (5)  
29 through (15), respectively, and a new subsection (4) is added  
30 to said section to read:

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1           465.003 Definitions.--As used in this chapter, the  
2 term:

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

7           Section 3. Paragraph (q) is added to subsection (1) of  
8 section 465.016, Florida Statutes, to read:

9           465.016 Disciplinary actions.--

10          (1) The following acts shall be grounds for  
11 disciplinary action set forth in this section:

12          (q) Using or releasing a patient's records except as  
13 authorized by this chapter and chapter 455.

14          Section 4. Subsection (2) of section 465.017, Florida  
15 Statutes, is amended to read:

16          465.017 Authority to inspect.--

17          (2) Except as permitted by this chapter, and chapters  
18 406, 409, 455, 499, and 893, records maintained by ~~in~~ a  
19 pharmacy relating to the filling of prescriptions and the  
20 dispensing of medicinal drugs shall not be furnished, except  
21 upon the written authorization of the patient, to any person  
22 other than to the patient for whom the drugs were dispensed,  
23 ~~or her or his legal representative, or to the department~~  
24 ~~pursuant to existing law,~~ or, in the event that the patient is  
25 incapacitated or unable to request such ~~said~~ records, her or  
26 his spouse; to the department pursuant to law; to health care  
27 practitioners and pharmacists consulting with or dispensing to  
28 the patient, including physicians who are part of independent  
29 practice associations, physician hospital organizations, or  
30 other such organized provider groups; to entities that provide  
31 compliance services; or to insurance carriers or other payors

1 authorized by the patient to receive such records. For  
2 purposes of this section, records held in a pharmacy shall be  
3 considered owned by the owner of the pharmacy. The pharmacy  
4 owner may use such records in the aggregate without patient  
5 identification data, regardless of where such records are  
6 held, for purposes reasonably related to the business and  
7 practice of pharmacy ~~except upon the written authorization of~~  
8 ~~such patient.~~ Such records may be furnished in any civil or  
9 criminal proceeding, upon the issuance of a subpoena from a  
10 court of competent jurisdiction and proper notice to the  
11 patient or her or his legal representative by the party  
12 seeking such records. Such records or any part thereof, if  
13 transmitted through a data communication device not under the  
14 control or ownership of a pharmacy or affiliated company or  
15 not directly between a pharmacy and a treating practitioner,  
16 may not be accessed, used, or maintained by the operator or  
17 owner of the data communication device unless specifically  
18 authorized by this section. It is the intent of this  
19 subsection to allow the use and sharing of such records to  
20 improve patient care, provided the pharmacist acts in the best  
21 interests of her or his patient. Nothing in this subsection  
22 may be construed to authorize or expand solicitation or  
23 marketing to patients or potential patients in any manner not  
24 otherwise specifically authorized by law.

25 Section 5. Section 465.014, Florida Statutes, is  
26 amended to read:

27 465.014 Pharmacy technician.--No person other than a  
28 licensed pharmacist or pharmacy intern may engage in the  
29 practice of the profession of pharmacy, except that a licensed  
30 pharmacist may delegate to nonlicensed pharmacy technicians  
31 those duties, tasks, and functions which do not fall within

1 the purview of s. 465.003(13)(~~12~~). All such delegated acts  
2 shall be performed under the direct supervision of a licensed  
3 pharmacist who shall be responsible for all such acts  
4 performed by persons under his or her supervision. A pharmacy  
5 technician, under the supervision of a pharmacist, may  
6 initiate or receive communications with a practitioner or his  
7 or her agent, on behalf of a patient, regarding refill  
8 authorization requests. No licensed pharmacist shall  
9 supervise more than one pharmacy technician unless otherwise  
10 permitted by the guidelines adopted by the board. The board  
11 shall establish guidelines to be followed by licensees or  
12 permittees in determining the circumstances under which a  
13 licensed pharmacist may supervise more than one but not more  
14 than three pharmacy technicians.

15 Section 6. Paragraph (c) of subsection (2) of section  
16 465.015, Florida Statutes, is amended to read:

17 465.015 Violations and penalties.--

18 (2) It is unlawful for any person:

19 (c) To sell or dispense drugs as defined in s.  
20 465.003(8)(~~7~~)without first being furnished with a  
21 prescription.

22 Section 7. Section 465.0196, Florida Statutes, is  
23 amended to read:

24 465.0196 Special pharmacy permits.--Any person  
25 desiring a permit to operate a pharmacy which does not fall  
26 within the definitions set forth in s. 465.003(11)(~~10~~)(a)1.,  
27 2., and 3. shall apply to the department for a special  
28 pharmacy permit. If the board certifies that the application  
29 complies with the applicable laws and rules of the board  
30 governing the practice of the profession of pharmacy, the  
31 department shall issue the permit. No permit shall be issued

1 unless a licensed pharmacist is designated to undertake the  
2 professional supervision of the compounding and dispensing of  
3 all drugs dispensed by the pharmacy. The licensed pharmacist  
4 shall be responsible for maintaining all drug records and for  
5 providing for the security of the area in the facility in  
6 which the compounding, storing, and dispensing of medicinal  
7 drugs occurs. The permittee shall notify the department  
8 within 10 days of any change of the licensed pharmacist  
9 responsible for such duties.

10 Section 8. Subsection (3) of section 468.812, Florida  
11 Statutes, is amended to read:

12 468.812 Exemptions from licensure.--

13 (3) The provisions of this act relating to orthotics  
14 or pedorthics do not apply to any licensed pharmacist or to  
15 any person acting under the supervision of a licensed  
16 pharmacist. The practice of orthotics or pedorthics by a  
17 pharmacist or any of the pharmacist's employees acting under  
18 the supervision of a pharmacist shall be construed to be  
19 within the meaning of the term "practice of the profession of  
20 pharmacy" as set forth in s. 465.003(13)(~~12~~), and shall be  
21 subject to regulation in the same manner as any other pharmacy  
22 practice. The Board of Pharmacy shall develop rules regarding  
23 the practice of orthotics and pedorthics by a pharmacist. Any  
24 pharmacist or person under the supervision of a pharmacist  
25 engaged in the practice of orthotics or pedorthics shall not  
26 be precluded from continuing that practice pending adoption of  
27 these rules.

28 Section 9. Subsection (19) of section 499.003, Florida  
29 Statutes, is amended to read:

30 499.003 Definitions of terms used in ss.

31 499.001-499.081.--As used in ss. 499.001-499.081, the term:

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

7           Section 10. This act shall take effect July 1, 1999.

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