

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 207 Disposal of Pharmacy Patient Records  
**SPONSOR(S):** Mealor and others  
**TIED BILLS:** None. **IDEN./SIM. BILLS:** None.

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Standards (Sub)		Mitchell	Collins
2) Health Care			
3) State Administration			
4)			
5)			

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### SUMMARY ANALYSIS

HB 207 addresses the problem of inadequate disposal of prescription records. A television news report in Central Florida (WFTV) exposed pharmacies disposing of inactive prescription records in a dumpster without shredding them. Such inadequate disposal allowed individuals to retrieve discarded prescriptions and use them to illegally obtain medications.

HB 207 requires the Board of Pharmacy to promulgate rules to establish practice guidelines for the disposal of prescription drug records by pharmacists and pharmacies, in a manner that preserves the confidentiality of the records.

Currently, the confidentiality of records relating to the filling of prescriptions and dispensing of prescription drugs is protected under s. 465.017(2), F.S. Prescription records can only be released to the patient or their legal representative, to the Department of Health for review purposes, and to the courts if subpoenaed. No guidelines exist in statute or rule for the disposal of these records.

According to the Medical Quality Assurance Annual Report of the Department of Health, there were 6,671 pharmacies and 20,230 pharmacists in Florida (2001-2002). The Department of Health's Division of Medical Quality Assurance provides administrative support to the Board of Pharmacy for licensure and administrative rules for pharmacies and pharmacists.

According to the Department of Health, the bill has no fiscal impact on the department and Board of Pharmacy. Rulemaking is currently a responsibility of the department and board.

Depending upon the method of disposal required by rule and the method of disposal currently in use by pharmacies, state agencies, local governments and businesses that operate pharmacies may have additional expenses.

The bill takes effect on July 1, 2003.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0207.hc.doc  
**DATE:** March 9, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

#### B. EFFECT OF PROPOSED CHANGES:

HB 207 requires the Board of Pharmacy to promulgate rules to establish practice guidelines for the disposal of prescription records by pharmacists and pharmacies, in a manner that preserves the confidentiality of such records according to applicable state and federal law.

According to the bill sponsor, television news reports by WFTV brought to his attention the problem of certain pharmacies disposing of their inactive prescriptions in a dumpster without shredding them. This enabled individuals to retrieve the discarded prescriptions and use them to illegally obtain medications.

Currently, no guidelines exist in statute or rule for the disposal of these prescription records.

The confidentiality of records relating to the filling of prescriptions and dispensing of prescription drugs is protected under s. 465.017(2), F.S. The records can only be released to the patient or their legal representative, to the Department of Health for review purposes, and to the courts if subpoenaed.

Current administrative rules related to pharmacy patient records, Chapter 64B16-27.800, Florida Administrative Code, require:

- (1) A patient record system shall be maintained by all pharmacies for patients to whom new or refill prescriptions are dispensed.
- (2) A patient record shall be maintained for a period of not less than two years from the date of the last entry in the profile record. This record may be a hard copy or a computerized form.
- (3) Patient records shall be maintained for prescriptions dispensed subsequent to the effective date of this regulation.

Section 465.0155, F.S., relating to standards of practice, provides authority for the Board of Pharmacy to adopt by rule, standards of practice relating to the practice of pharmacy.

The federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 includes provisions for privacy of confidential personal health care information and secure physical access to records.

According to the Department of Health, Medical Quality Assurance Annual Report, there were 6,671 pharmacies and 20,230 pharmacists licensed in Florida in 2001-2002. The Board of Pharmacy is housed in the Department of Health's Division of Medical Quality Assurance which provides administrative support to the board in the promulgation of rules.

C. SECTION DIRECTORY:

**Section 1.** Amends s. 465.017(2), F.S., to require the Board of Pharmacy to promulgate rules to establish practice guidelines for the disposal of records relating to the dispensing of prescription drugs that protect patient confidentiality.

**Section 2.** Provides an effective date of July 1, 2003.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to the Department of Health, the bill has no fiscal impact on the department and board. Rulemaking is currently a responsibility of the department and board. See D., fiscal comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See D., Fiscal Comments, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See D., Fiscal Comments, below.

D. FISCAL COMMENTS:

According to the Department of Health, depending upon the method of disposal required by rule and the method of disposal currently in use by pharmacies, state agencies, local governments and businesses that operate pharmacies may have additional expenses.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

Yes. The purpose of the bill is to require the Board of Pharmacy, within the Department of Health's Division of Medical Quality Assurance, to promulgate rules relating to disposal of records relating to the dispensing of prescription drugs by pharmacists and pharmacies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**