

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 207 Disposal of Pharmacy Patient Records  
**SPONSOR(S):** Mealor, and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 2670

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Standards (Sub)	8 Y, 0 N	Mitchell	Collins
2) Health Care	20 Y, 0 N	Mitchell	Collins
3) State Administration	6 Y, 0 N	Brazzell	Everhart
4)			
5)			

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### SUMMARY ANALYSIS

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

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:** h0207d.sa.doc  
**DATE:** April 8, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

Reduce government: This bill requires the Board of Pharmacy to adopt rules regulating the disposal of certain pharmacy records.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background:**

According to the bill sponsor, television news reports by WFTV in Central Florida featured pharmacies disposing of their inactive prescriptions containing personal information in trash containers without destroying them first, thereby permitting others to access them.

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

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 protecting privacy of confidential personal health care information and provides for penalties for health care providers' intentionally or unintentionally divulging personal information. Its provisions also apply to records maintained by pharmacies. Compliance requirements are being phased in; for instance, compliance with privacy standards is required of all covered entities by April 14, 2003, except for small plans, which have until April 14, 2004. HIPAA does not specify methods for disposal of records.

According to the Department of Health, Medical Quality Assurance Annual Report, there were 6,671 pharmacies and 20,230 pharmacists with active licenses 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.

Examples of patient records that may be covered by the bill include patient profiles, insurance information, counseling logs, and prescription details. Records may be on paper or maintained electronically. Common methods for disposing of records include incineration and shredding.

##### **Proposed Changes:**

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

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 and medicinal 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**

N/A.