

CHAMBER ACTION

1 The Committee on Health Care recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the Florida Pharmacy Act; amending s.
7 465.015, F.S.; providing that it is unlawful for a person,
8 firm, or corporation that is not licensed or registered
9 under the act to use certain terms implying that the
10 person, firm, or corporation is so licensed or registered,
11 or to hold himself, herself, or itself out as licensed or
12 registered to practice pharmacy in this state; providing
13 penalties; amending s. 465.003, F.S.; defining the term
14 "automated pharmacy system"; creating s. 465.0235, F.S.;
15 authorizing a pharmacy to provide services to a long-term
16 care facility, hospice, or state correctional institution
17 through an automated pharmacy system; providing that drugs
18 dispensed from an automated pharmacy system are considered
19 to have been dispensed by the pharmacy that services a
20 long-term care facility, hospice, or correctional
21 institution; requiring that the operation of an automated
22 pharmacy system be under the supervision of a Florida-
23 licensed pharmacist; providing duties of such pharmacist;

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24 providing legislative intent relating to automated
 25 pharmacy systems; requiring the Board of Pharmacy to adopt
 26 rules; amending s. 465.026, F.S.; authorizing mail-order
 27 pharmacies that use a common database to perform automated
 28 prescription filling or dispensing functions to process
 29 prescriptions for controlled substances using that common
 30 database in compliance with federal law and regulation;
 31 providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Paragraph (c) is added to subsection (3) of
 36 section 465.015, Florida Statutes, and subsection (4) of said
 37 section is amended, to read:

38 465.015 Violations and penalties.--

39 (3)

40 (c) It is unlawful for a person, firm, or corporation that
 41 is not licensed or registered under this chapter to:

42 1. Use in a trade name, sign, letter, or advertisement any
 43 term, including "drug," "pharmacy," "prescription drugs," "Rx,"
 44 or "apothecary," that implies that the person, firm, or
 45 corporation is licensed or registered to practice pharmacy in
 46 this state.

47 2. Hold himself, herself, or itself out to others as a
 48 person, firm, or corporation licensed or registered to practice
 49 pharmacy in this state.

50 (4) Any person who violates any provision of subsection
 51 (1) or subsection (3) commits ~~is guilty of~~ a misdemeanor of the

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52 first degree, punishable as provided in s. 775.082 or s.
 53 775.083. Any person who violates any provision of subsection (2)
 54 commits ~~is guilty of~~ a felony of the third degree, punishable as
 55 provided in s. 775.082, s. 775.083, or s. 775.084. In any
 56 warrant, information, or indictment, it shall not be necessary
 57 to negative any exceptions, and the burden of any exception
 58 shall be upon the defendant.

59 Section 2. Subsection (17) is added to section 465.003,
 60 Florida Statutes, to read:

61 465.003 Definitions.--As used in this chapter, the term:
 62 (17) "Automated pharmacy system" means a mechanical system
 63 that dispenses prescription drugs received from a Florida-
 64 licensed pharmacy and maintains related transaction information.

65 Section 3. Section 465.0235, Florida Statutes, is created
 66 to read:

67 465.0235 Automated pharmacy systems used by long-term care
 68 facilities, hospices, or state correctional institutions.--

69 (1) A pharmacy may provide pharmacy services to a long-
 70 term care facility or hospice licensed under chapter 400 or a
 71 state correctional institution operated under chapter 944
 72 through the use of an automated pharmacy system that need not be
 73 located at the same location as the pharmacy.

74 (2) Medicinal drugs stored in bulk or unit of use in an
 75 automated pharmacy system servicing a long-term care facility,
 76 hospice, or correctional institution are part of the inventory
 77 of the pharmacy providing pharmacy services to that facility,
 78 hospice, or institution, and drugs dispensed from the automated

79 | pharmacy system are considered to have been dispensed by that
 80 | pharmacy.

81 | (3) The operation of an automated pharmacy system must be
 82 | under the supervision of a Florida-licensed pharmacist. To
 83 | qualify as a supervisor for an automated pharmacy system, the
 84 | pharmacist need not be physically present at the site of the
 85 | automated pharmacy system and may supervise the system
 86 | electronically. The Florida-licensed pharmacist shall be
 87 | required to develop and implement policies and procedures
 88 | designed to verify that the prescriptions filled by the
 89 | automated pharmacy system are accurate and valid and that the
 90 | machine is properly restocked.

91 | (4) The Legislature does not intend this section to limit
 92 | the current practice of pharmacy in this state. This section is
 93 | intended to allow automated pharmacy systems to enhance the
 94 | ability of a pharmacist to provide pharmacy services in
 95 | locations that do not employ a full-time pharmacist. This
 96 | section does not limit or replace the use of a consultant
 97 | pharmacist.

98 | (5) The board shall adopt rules governing the use of an
 99 | automated pharmacy system by January 1, 2005, which must
 100 | specify:

101 | (a) Recordkeeping requirements.

102 | (b) Security requirements.

103 | (c) Labeling requirements that permit the use of unit-dose
 104 | medications if the facility, hospice, or institution maintains
 105 | medication-administration records that include directions for

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106 | use of the medication and the automated pharmacy system
107 | identifies:

- 108 | 1. The dispensing pharmacy.
- 109 | 2. The prescription number.
- 110 | 3. The name of the patient.
- 111 | 4. The name of the prescribing practitioner.

112 | Section 4. Section 465.026, Florida Statutes, is amended
113 | to read:

114 | 465.026 Filling of certain prescriptions.--Nothing
115 | contained in this chapter shall be construed to prohibit a
116 | pharmacist licensed in this state from filling or refilling a
117 | valid prescription which is on file in a pharmacy located in
118 | this state or in another state and has been transferred from one
119 | pharmacy to another by any means, including any electronic
120 | means, under the following conditions:

121 | (1) Prior to dispensing any transferred prescription, the
122 | dispensing pharmacist must, either verbally or by any electronic
123 | means, do all of the following:

124 | (a) Advise the patient that the prescription on file at
125 | the other pharmacy must be canceled before it may be filled or
126 | refilled.

127 | (b) Determine that the prescription is valid and on file
128 | at the other pharmacy and that the prescription may be filled or
129 | refilled, as requested, in accordance with the prescriber's
130 | intent expressed on the prescription.

131 | (c) Notify the pharmacist or pharmacy where the
132 | prescription is on file that the prescription must be canceled.

133 (d) Record in writing, or by any electronic means, the
 134 prescription order, the name of the pharmacy at which the
 135 prescription was on file, the prescription number, the name of
 136 the drug and the original amount dispensed, the date of original
 137 dispensing, and the number of remaining authorized refills.

138 (e) Obtain the consent of the prescriber to the refilling
 139 of the prescription when the prescription, in the dispensing
 140 pharmacist's professional judgment, so requires. Any
 141 interference with the professional judgment of the dispensing
 142 pharmacist by any pharmacist or pharmacy permittee, or its
 143 agents or employees, shall be grounds for discipline.

144 (2) Upon receipt of a prescription transfer request, if
 145 the pharmacist is satisfied in her or his professional judgment
 146 that the request is valid, or if the request has been validated
 147 by any electronic means, the pharmacist or pharmacy must do all
 148 of the following:

149 (a) Transfer the information required by paragraph (1)(d)
 150 accurately and completely.

151 (b) Record on the prescription, or by any electronic
 152 means, the requesting pharmacy and pharmacist and the date of
 153 request.

154 (c) Cancel the prescription on file by electronic means or
 155 by recording the word "void" on the prescription record. No
 156 further prescription information shall be given or medication
 157 dispensed pursuant to the original prescription.

158 (3) If a transferred prescription is not dispensed within
 159 a reasonable time, the pharmacist shall, by any means, so notify
 160 the transferring pharmacy. Such notice shall serve to revalidate

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161 the canceled prescription. The pharmacist who has served such
162 notice shall then cancel the prescription in the same manner as
163 set forth in paragraph (2)(c).

164 (4) In the case of a prescription to be transferred from
165 or to a pharmacy located in another state, it shall be the
166 responsibility of the pharmacist or pharmacy located in the
167 State of Florida to verify, whether by electronic means or
168 otherwise, that the person or entity involved in the transfer is
169 a licensed pharmacist or pharmacy in the other state.

170 (5) Electronic transfers of prescriptions are permitted
171 regardless of whether the transferor or transferee pharmacy is
172 open for business.

173 (6) The transfer of a prescription for medicinal drugs
174 listed in Schedules III, IV, and V appearing in chapter 893 for
175 the purpose of refill dispensing is permissible, subject to the
176 requirements of this section and federal law. Compliance with
177 federal law shall be deemed compliance with the requirements of
178 this section.

179 (7) For purposes of this section, a mail-order pharmacy
180 that uses a common database to perform automated prescription
181 filling or dispensing functions may process a prescription for a
182 controlled substance using that common database to perform
183 prescription filling or dispensing functions in compliance with
184 federal law and regulation.

185 Section 5. This act shall take effect upon becoming a law.