

By the Committees on Criminal Justice; Health, Aging, and Long-Term Care; and Senators Fasano, Peaden and Aronberg

307-2129-04

1 A bill to be entitled
2 An act relating to the Florida Pharmacy Act;
3 amending s. 465.003, F.S.; defining the term
4 "automated pharmacy system" for purposes of the
5 Florida Pharmacy Act; amending s. 465.015,
6 F.S.; providing that it is unlawful for a
7 person, firm, or corporation that is not
8 licensed or registered under the act to use
9 certain terms implying that the person, firm,
10 or corporation is so licensed or registered, or
11 to hold himself or herself out as licensed or
12 registered to practice pharmacy in this state;
13 providing penalties; creating s. 465.0235,
14 F.S.; authorizing a pharmacy to provide
15 services to a long-term care facility or
16 hospice licensed under ch. 400, F.S., or a
17 state correctional institution operated under
18 ch. 944, F.S., through an automated pharmacy
19 system; providing that drugs dispensed from an
20 automated pharmacy system are considered to
21 have been dispensed by the pharmacy that
22 services a long-term care facility, hospice, or
23 correctional institution; requiring that the
24 operation of an automated pharmacy system be
25 under the supervision of a pharmacist;
26 providing legislative intent relating to
27 automated pharmacy systems; requiring the Board
28 of Pharmacy to adopt rules; amending s.
29 465.026, F.S.; permitting a mail order pharmacy
30 that uses a common database to perform
31 automated prescription functions to process a

1 prescription for a controlled substance using
2 that common database to perform those
3 functions; providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Subsection (17) is added to section
8 465.003, Florida Statutes, to read:

9 465.003 Definitions.--As used in this chapter, the
10 term:

11 (17) "Automated pharmacy system" means a mechanical
12 system that dispenses prescription drugs received from a
13 Florida licensed pharmacy and maintains related transaction
14 information.

15 Section 2. Paragraph (c) is added to subsection (3) of
16 section 465.015, Florida Statutes, and subsection (4) of that
17 section is amended, to read:

18 465.015 Violations and penalties.--

19 (3)

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

22 1. Use in a trade name, sign, letter, or advertisement
23 any term, including "drug," "pharmacy," "prescription drugs,"
24 "Rx," or "apothecary," which implies that the person, firm, or
25 corporation is licensed or registered to practice pharmacy in
26 this state.

27 2. Hold himself or herself out to others as a person,
28 firm, or corporation licensed or registered to practice
29 pharmacy in this state.

30 (4) Any person who violates any provision of
31 subsection (1) or subsection (3) commits ~~is guilty of~~ a

1 misdemeanor of the first degree, punishable as provided in s.
2 775.082 or s. 775.083. Any person who violates any provision
3 of subsection (2) commits ~~is guilty of~~ a felony of the third
4 degree, punishable as provided in s. 775.082, s. 775.083, or
5 s. 775.084. In any warrant, information, or indictment, it
6 shall not be necessary to negative any exceptions, and the
7 burden of any exception shall be upon the defendant.

8 Section 3. Section 465.0235, Florida Statutes, is
9 created to read:

10 465.0235 Automated pharmacy systems used by long-term
11 care facilities or state correctional institutions.--

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

17 (2) Medicinal drugs stored in bulk or unit of use in
18 an automated pharmacy system servicing a long-term care
19 facility, hospice, or correctional institution are part of the
20 inventory of the pharmacy providing pharmacy services to that
21 facility or institution, and drugs dispensed from the
22 automated pharmacy system are considered to have been
23 dispensed by that pharmacy.

24 (3) The operation of an automated pharmacy system must
25 be under the supervision of a Florida-licensed pharmacist. To
26 qualify as a supervisor for an automated pharmacy system, the
27 pharmacist need not be physically present at the site of the
28 automated pharmacy system and may supervise the system
29 electronically. The Florida-licensed pharmacist shall be
30 required to develop and implement policies and procedures
31 designed to verify that the prescriptions filled by the

1 automated dispensing system are accurate and valid and that
2 the machine is properly restocked.

3 (4) The Legislature does not intend this section to
4 limit the current practice of pharmacy in this state. This
5 section is intended to allow automated pharmacy systems to
6 enhance the ability of a pharmacist to provide pharmacy
7 services in locations that do not employ a full-time
8 pharmacist. This section does not limit or replace the use of
9 a consultant pharmacist.

10 (5) The board shall adopt rules governing the use of
11 an automated pharmacy system by January 1, 2005, which must
12 specify:

13 (a) Recordkeeping requirements;

14 (b) Security requirements; and

15 (c) Labeling requirements that permit the use of
16 unit-dose medications if the facility or institution maintains
17 medication-administration records that include directions for
18 use of the medication and the automated pharmacy system
19 identifies:

20 1. The dispensing pharmacy;

21 2. The prescription number;

22 3. The name of the patient; and

23 4. The name of the prescribing practitioner.

24 Section 4. Subsection (7) is added to section 465.026,
25 Florida Statutes, to read:

26 465.026 Filling of certain prescriptions.--Nothing
27 contained in this chapter shall be construed to prohibit a
28 pharmacist licensed in this state from filling or refilling a
29 valid prescription which is on file in a pharmacy located in
30 this state or in another state and has been transferred from
31

1 one pharmacy to another by any means, including any electronic
2 means, under the following conditions:

3 (7) For purposes of this section, a mail order
4 pharmacy that uses a common database to perform automated
5 prescription filling and dispensing functions may process a
6 prescription for a controlled substance using that common
7 database to perform those functions in compliance with federal
8 law and regulation.

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

11
12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 CS/SB 1294

- 15 - Requires the Florida-licensed pharmacist to develop and
16 implement quality control policies and procedures for the
automated dispensing system he or she supervises.
- 17 - Clarifies that a mail order pharmacy that uses a common
18 database to perform automated prescription filling and
19 dispensing functions may use that database to process
prescriptions for controlled substances, in compliance
with federal law.
- 20 - Creates a first degree misdemeanor offense when a person,
21 firm, or corporation not licensed under chapter 465, uses
deceptive advertising or other means to imply that the
22 person, firm, or corporation is licensed or registered to
practice pharmacy in this state.