

By Senator Saunders

37-1034-04

See HB 141

1                                   A bill to be entitled  
2           An act relating to pharmacy; amending s.  
3           465.003, F.S.; defining the term "Internet  
4           pharmacy"; amending s. 465.0156, F.S.;  
5           exempting Internet pharmacies from registration  
6           requirements applicable to nonresident  
7           pharmacies; amending s. 465.016, F.S.;  
8           providing for disciplinary action for  
9           dispensing a medicinal drug when the pharmacist  
10          knows or has reason to believe a prescription  
11          is not valid; creating s. 465.0161, F.S.;  
12          prohibiting the distribution of medicinal drugs  
13          by an Internet pharmacy without a permit;  
14          providing penalties; amending s. 465.0196,  
15          F.S., relating to special pharmacy permits, to  
16          conform; creating s. 465.0197, F.S.; requiring  
17          Internet pharmacies to be permitted and  
18          providing requirements therefor; amending s.  
19          895.02, F.S.; including violation of s.  
20          465.0161, F.S., in the definition of the term  
21          "racketeering activity" for prosecution under  
22          ch. 895, F.S.; providing an effective date.

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24 Be It Enacted by the Legislature of the State of Florida:  
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26           Section 1. Paragraph (a) of subsection (11) of section  
27 465.003, Florida Statutes, is amended to read:

28           465.003 Definitions.--As used in this chapter, the  
29 term:  
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1           (11)(a) "Pharmacy" includes a community pharmacy, an  
2 institutional pharmacy, a nuclear pharmacy, ~~and~~ a special  
3 pharmacy, and an Internet pharmacy.

4           1. The term "community pharmacy" includes every  
5 location where medicinal drugs are compounded, dispensed,  
6 stored, or sold or where prescriptions are filled or dispensed  
7 on an outpatient basis.

8           2. The term "institutional pharmacy" includes every  
9 location in a hospital, clinic, nursing home, dispensary,  
10 sanitarium, extended care facility, or other facility,  
11 hereinafter referred to as "health care institutions," where  
12 medicinal drugs are compounded, dispensed, stored, or sold.

13           3. The term "nuclear pharmacy" includes every location  
14 where radioactive drugs and chemicals within the  
15 classification of medicinal drugs are compounded, dispensed,  
16 stored, or sold. The term "nuclear pharmacy" does not include  
17 hospitals licensed under chapter 395 or the nuclear medicine  
18 facilities of such hospitals.

19           4. The term "special pharmacy" includes every location  
20 where medicinal drugs are compounded, dispensed, stored, or  
21 sold if such locations are not otherwise defined in this  
22 subsection.

23           5. The term "Internet pharmacy" includes locations  
24 that are not otherwise defined in this subsection where  
25 medicinal drugs are compounded, dispensed, or stored and  
26 subsequently sold primarily or exclusively to consumers over  
27 the Internet.

28           Section 2. Subsection (7) is added to section  
29 465.0156, Florida Statutes, to read:

30           465.0156 Registration of nonresident pharmacies.--

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1           (7) This section does not apply to Internet pharmacies  
2 required to be permitted under s. 465.0197.

3           Section 3. Paragraph (s) is added to subsection (1) of  
4 section 465.016, Florida Statutes, to read:

5           465.016 Disciplinary actions.--

6           (1) The following acts constitute grounds for denial  
7 of a license or disciplinary action, as specified in s.  
8 456.072(2):

9           (s) Dispensing any medicinal drug based upon a  
10 communication that purports to be a prescription as defined by  
11 s. 465.003(14) or s. 893.02(20) when the pharmacist knows or  
12 has reason to believe that the purported prescription is not  
13 based upon a valid practitioner-patient relationship,  
14 including appropriate patient history and a face-to-face or  
15 visual encounter by the practitioner.

16           Section 4. Section 465.0161, Florida Statutes, is  
17 created to read:

18           465.0161 Distribution of medicinal drugs without a  
19 permit.--An Internet pharmacy that distributes a medicinal  
20 drug to any person in this state without being permitted as a  
21 pharmacy under this chapter commits a felony of the second  
22 degree, punishable as provided in s. 775.082, s. 775.083, or  
23 s. 775.084.

24           Section 5. Section 465.0196, Florida Statutes, is  
25 amended to read:

26           465.0196 Special pharmacy permits.--Any person  
27 desiring a permit to operate a special pharmacy ~~which does not~~  
28 ~~fall within the definitions set forth in s. 465.003(11)(a)1.,~~  
29 ~~2., and 3.~~ shall apply to the department for a special  
30 pharmacy permit. If the board certifies that the application  
31 complies with the applicable laws and rules of the board

1 governing the practice of the profession of pharmacy, the  
2 department shall issue the permit. No permit shall be issued  
3 unless a licensed pharmacist is designated to undertake the  
4 professional supervision of the compounding and dispensing of  
5 all drugs dispensed by the pharmacy. The licensed pharmacist  
6 shall be responsible for maintaining all drug records and for  
7 providing for the security of the area in the facility in  
8 which the compounding, storing, and dispensing of medicinal  
9 drugs occurs. The permittee shall notify the department within  
10 10 days of any change of the licensed pharmacist responsible  
11 for such duties. Every permittee that employs or otherwise  
12 utilizes pharmacy technicians shall have a written policy and  
13 procedures manual specifying those duties, tasks, and  
14 functions which a pharmacy technician is allowed to perform.

15 Section 6. Section 465.0197, Florida Statutes, is  
16 created to read:

17 465.0197 Internet pharmacy permits.--

18 (1) Any person desiring a permit to operate an  
19 Internet pharmacy shall apply to the department for an  
20 Internet pharmacy permit. If the board certifies that the  
21 application complies with the applicable laws and rules of the  
22 board governing the practice of the profession of pharmacy,  
23 the department shall issue the permit. No permit shall be  
24 issued unless a licensed pharmacist is designated as the  
25 prescription department manager for dispensing medicinal drugs  
26 to persons in this state. The licensed pharmacist shall be  
27 responsible for maintaining all drug records and for providing  
28 for the security of the area in the facility in which the  
29 compounding, storing, and dispensing of medicinal drugs to  
30 persons in this state occurs. The permittee shall notify the  
31 department within 30 days of any change of the licensed

1 pharmacist responsible for such duties. Every permittee that  
2 employs or otherwise utilizes pharmacy technicians shall have  
3 a written policy and procedures manual specifying those  
4 duties, tasks, and functions which a pharmacy technician is  
5 allowed to perform.

6 (2) An Internet pharmacy must be permitted under this  
7 section to sell medicinal drugs to persons in this state.

8 (3) An Internet pharmacy shall provide pharmacy  
9 services at a high level of protection and competence and  
10 shall disclose to the board the following specific  
11 information:

12 (a) That it maintains at all times a valid, unexpired  
13 license, permit, or registration to operate the pharmacy in  
14 compliance with the laws of the state in which the dispensing  
15 facility is located and from which the medicinal drugs shall  
16 be dispensed.

17 (b) The location, names, and titles of all principal  
18 corporate officers and the pharmacist who serves as the  
19 prescription department manager for dispensing medicinal drugs  
20 to persons in this state. This disclosure shall be made within  
21 30 days after any change of location, principal corporate  
22 officer, or pharmacist serving as the prescription department  
23 manager for dispensing medicinal drugs to persons in this  
24 state.

25 (c) That it complies with all lawful directions and  
26 requests for information from the regulatory or licensing  
27 agency of all states in which it is licensed as well as with  
28 all requests for information made by the board pursuant to  
29 this section. It shall respond directly to all communications  
30 from the board concerning emergency circumstances arising from

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1 errors in the dispensing of medicinal drugs to persons in this  
2 state.

3 (d) That it maintains its records of medicinal drugs  
4 dispensed to patients in this state so that the records are  
5 readily retrievable from the other business records of the  
6 pharmacy and from the records of other medicinal drugs  
7 dispensed.

8 (e) That during its regular hours of operation but not  
9 less than 6 days per week, for a minimum of 40 hours per week,  
10 a toll-free telephone service shall be provided to facilitate  
11 communication between patients in this state and a pharmacist  
12 at the pharmacy who has access to the patient's records. This  
13 toll-free number must be disclosed on the label affixed to  
14 each container of dispensed medicinal drugs.

15 Section 7. Paragraph (a) of subsection (1) of section  
16 895.02, Florida Statutes, is amended to read:

17 895.02 Definitions.--As used in ss. 895.01-895.08, the  
18 term:

19 (1) "Racketeering activity" means to commit, to  
20 attempt to commit, to conspire to commit, or to solicit,  
21 coerce, or intimidate another person to commit:

22 (a) Any crime which is chargeable by indictment or  
23 information under the following provisions of the Florida  
24 Statutes:

25 1. Section 210.18, relating to evasion of payment of  
26 cigarette taxes.

27 2. Section 403.727(3)(b), relating to environmental  
28 control.

29 ~~3.4.~~ Section 409.920, relating to Medicaid provider  
30 fraud.

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1           ~~4.3.~~ Section 414.39, relating to public assistance  
2 fraud.  
3           5. Section 440.105 or s. 440.106, relating to workers'  
4 compensation.  
5           6. Section 465.0161, relating to distribution of  
6 medicinal drugs without a permit as an Internet pharmacy.  
7           ~~7.6.~~ Sections 499.0051, 499.0052, 499.0053, 499.0054,  
8 and 499.0691, relating to crimes involving contraband and  
9 adulterated drugs.  
10          ~~8.7.~~ Part IV of chapter 501, relating to  
11 telemarketing.  
12          ~~9.8.~~ Chapter 517, relating to sale of securities and  
13 investor protection.  
14          ~~10.9.~~ Section 550.235, s. 550.3551, or s. 550.3605,  
15 relating to dogracing and horseracing.  
16          ~~11.10.~~ Chapter 550, relating to jai alai frontons.  
17          ~~12.11.~~ Chapter 552, relating to the manufacture,  
18 distribution, and use of explosives.  
19          ~~13.12.~~ Chapter 560, relating to money transmitters, if  
20 the violation is punishable as a felony.  
21          ~~14.13.~~ Chapter 562, relating to beverage law  
22 enforcement.  
23          ~~15.14.~~ Section 624.401, relating to transacting  
24 insurance without a certificate of authority, s.  
25 624.437(4)(c)1., relating to operating an unauthorized  
26 multiple-employer welfare arrangement, or s. 626.902(1)(b),  
27 relating to representing or aiding an unauthorized insurer.  
28          ~~16.15.~~ Section 655.50, relating to reports of currency  
29 transactions, when such violation is punishable as a felony.  
30          ~~17.16.~~ Chapter 687, relating to interest and usurious  
31 practices.

1           ~~18.17.~~ Section 721.08, s. 721.09, or s. 721.13,  
2 relating to real estate timeshare plans.  
3           ~~19.18.~~ Chapter 782, relating to homicide.  
4           ~~20.19.~~ Chapter 784, relating to assault and battery.  
5           ~~21.20.~~ Chapter 787, relating to kidnapping.  
6           ~~22.21.~~ Chapter 790, relating to weapons and firearms.  
7           ~~23.22.~~ Section 796.03, s. 796.04, s. 796.05, or s.  
8 796.07, relating to prostitution.  
9           ~~24.23.~~ Chapter 806, relating to arson.  
10           ~~25.24.~~ Section 810.02(2)(c), relating to specified  
11 burglary of a dwelling or structure.  
12           ~~26.25.~~ Chapter 812, relating to theft, robbery, and  
13 related crimes.  
14           ~~27.26.~~ Chapter 815, relating to computer-related  
15 crimes.  
16           ~~28.27.~~ Chapter 817, relating to fraudulent practices,  
17 false pretenses, fraud generally, and credit card crimes.  
18           ~~29.28.~~ Chapter 825, relating to abuse, neglect, or  
19 exploitation of an elderly person or disabled adult.  
20           ~~30.29.~~ Section 827.071, relating to commercial sexual  
21 exploitation of children.  
22           ~~31.30.~~ Chapter 831, relating to forgery and  
23 counterfeiting.  
24           ~~32.31.~~ Chapter 832, relating to issuance of worthless  
25 checks and drafts.  
26           ~~33.32.~~ Section 836.05, relating to extortion.  
27           ~~34.33.~~ Chapter 837, relating to perjury.  
28           ~~35.34.~~ Chapter 838, relating to bribery and misuse of  
29 public office.  
30           ~~36.35.~~ Chapter 843, relating to obstruction of  
31 justice.



1           37.36. Section 847.011, s. 847.012, s. 847.013, s.  
2 847.06, or s. 847.07, relating to obscene literature and  
3 profanity.  
4           38.37. Section 849.09, s. 849.14, s. 849.15, s.  
5 849.23, or s. 849.25, relating to gambling.  
6           39.38. Chapter 874, relating to criminal street gangs.  
7           40.39. Chapter 893, relating to drug abuse prevention  
8 and control.  
9           41.40. Chapter 896, relating to offenses related to  
10 financial transactions.  
11           42.41. Sections 914.22 and 914.23, relating to  
12 tampering with a witness, victim, or informant, and  
13 retaliation against a witness, victim, or informant.  
14           43.42. Sections 918.12 and 918.13, relating to  
15 tampering with jurors and evidence.  
16           Section 8. This act shall take effect July 1, 2004.  
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