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A bill to be entitled

An act relating to pharmacy; amending s. 465.003, F.S.; defining the term "Internet pharmacy"; amending s. 465.0156, F.S.; exempting Internet pharmacies from registration requirements applicable to nonresident pharmacies; amending s. 465.016, F.S.; providing for disciplinary action for dispensing a medicinal drug when the pharmacist knows or has reason to believe a prescription is not valid; creating s. 465.0161, F.S.; prohibiting the distribution of medicinal drugs by an Internet pharmacy without a permit; providing penalties; amending s. 465.0196, F.S., relating to special pharmacy permits, to conform; creating s. 465.0197, F.S.; requiring Internet pharmacies to be permitted and providing requirements therefor; amending s. 895.02, F.S.; including violation of s. 465.0161, F.S., in the definition of the term "racketeering activity" for prosecution under ch. 895, F.S.; providing an effective date.

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

Section 1. Paragraph (a) of subsection (11) of section 465.003, Florida Statutes, is amended to read:

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

(11)(a) "Pharmacy" includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, ~~and~~ a special pharmacy, and an Internet pharmacy.

1. The term "community pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold

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30 or where prescriptions are filled or dispensed on an outpatient
31 basis.

32 2. The term "institutional pharmacy" includes every
33 location in a hospital, clinic, nursing home, dispensary,
34 sanitarium, extended care facility, or other facility,
35 hereinafter referred to as "health care institutions," where
36 medicinal drugs are compounded, dispensed, stored, or sold.

37 3. The term "nuclear pharmacy" includes every location
38 where radioactive drugs and chemicals within the classification
39 of medicinal drugs are compounded, dispensed, stored, or sold.
40 The term "nuclear pharmacy" does not include hospitals licensed
41 under chapter 395 or the nuclear medicine facilities of such
42 hospitals.

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

46 5. The term "Internet pharmacy" includes locations that
47 are not otherwise defined in this subsection where medicinal
48 drugs are compounded, dispensed, or stored and subsequently sold
49 primarily or exclusively to consumers over the Internet.

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

52 465.0156 Registration of nonresident pharmacies.--

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

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

57 465.016 Disciplinary actions.--

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

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60 (s) Dispensing any medicinal drug based upon a
61 communication that purports to be a prescription as defined by
62 s. 465.003(14) or s. 893.02(20) when the pharmacist knows or has
63 reason to believe that the purported prescription is not based
64 upon a valid practitioner-patient relationship, including
65 appropriate patient history and a face-to-face or visual
66 encounter by the practitioner.

67 Section 4. Section 465.0161, Florida Statutes, is created
68 to read:

69 465.0161 Distribution of medicinal drugs without a
70 permit.--An Internet pharmacy that distributes a medicinal drug
71 to any person in this state without being permitted as a
72 pharmacy under this chapter commits a felony of the second
73 degree, punishable as provided in s. 775.082, s. 775.083, or s.
74 775.084.

75 Section 5. Section 465.0196, Florida Statutes, is amended
76 to read:

77 465.0196 Special pharmacy permits.--Any person desiring a
78 permit to operate a special pharmacy ~~which does not fall within~~
79 ~~the definitions set forth in s. 465.003(11)(a)1., 2., and 3.~~
80 shall apply to the department for a special pharmacy permit. If
81 the board certifies that the application complies with the
82 applicable laws and rules of the board governing the practice of
83 the profession of pharmacy, the department shall issue the
84 permit. No permit shall be issued unless a licensed pharmacist
85 is designated to undertake the professional supervision of the
86 compounding and dispensing of all drugs dispensed by the
87 pharmacy. The licensed pharmacist shall be responsible for
88 maintaining all drug records and for providing for the security
89 of the area in the facility in which the compounding, storing,

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90 and dispensing of medicinal drugs occurs. The permittee shall
 91 notify the department within 10 days of any change of the
 92 licensed pharmacist responsible for such duties. Every permittee
 93 that employs or otherwise utilizes pharmacy technicians shall
 94 have a written policy and procedures manual specifying those
 95 duties, tasks, and functions which a pharmacy technician is
 96 allowed to perform.

97 Section 6. Section 465.0197, Florida Statutes, is created
 98 to read:

99 465.0197 Internet pharmacy permits.--

100 (1) Any person desiring a permit to operate an Internet
 101 pharmacy shall apply to the department for an Internet pharmacy
 102 permit. If the board certifies that the application complies
 103 with the applicable laws and rules of the board governing the
 104 practice of the profession of pharmacy, the department shall
 105 issue the permit. No permit shall be issued unless a licensed
 106 pharmacist is designated as the prescription department manager
 107 for dispensing medicinal drugs to persons in this state. The
 108 licensed pharmacist shall be responsible for maintaining all
 109 drug records and for providing for the security of the area in
 110 the facility in which the compounding, storing, and dispensing
 111 of medicinal drugs to persons in this state occurs. The
 112 permittee shall notify the department within 30 days of any
 113 change of the licensed pharmacist responsible for such duties.
 114 Every permittee that employs or otherwise utilizes pharmacy
 115 technicians shall have a written policy and procedures manual
 116 specifying those duties, tasks, and functions which a pharmacy
 117 technician is allowed to perform.

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

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120 (3) An Internet pharmacy shall provide pharmacy services
 121 at a high level of protection and competence and shall disclose
 122 to the board the following specific information:

123 (a) That it maintains at all times a valid, unexpired
 124 license, permit, or registration to operate the pharmacy in
 125 compliance with the laws of the state in which the dispensing
 126 facility is located and from which the medicinal drugs shall be
 127 dispensed.

128 (b) The location, names, and titles of all principal
 129 corporate officers and the pharmacist who serves as the
 130 prescription department manager for dispensing medicinal drugs
 131 to persons in this state. This disclosure shall be made within
 132 30 days after any change of location, principal corporate
 133 officer, or pharmacist serving as the prescription department
 134 manager for dispensing medicinal drugs to persons in this state.

135 (c) That it complies with all lawful directions and
 136 requests for information from the regulatory or licensing agency
 137 of all states in which it is licensed as well as with all
 138 requests for information made by the board pursuant to this
 139 section. It shall respond directly to all communications from
 140 the board concerning emergency circumstances arising from errors
 141 in the dispensing of medicinal drugs to persons in this state.

142 (d) That it maintains its records of medicinal drugs
 143 dispensed to patients in this state so that the records are
 144 readily retrievable from the other business records of the
 145 pharmacy and from the records of other medicinal drugs
 146 dispensed.

147 (e) That during its regular hours of operation but not
 148 less than 6 days per week, for a minimum of 40 hours per week, a
 149 toll-free telephone service shall be provided to facilitate

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150 communication between patients in this state and a pharmacist at
 151 the pharmacy who has access to the patient's records. This toll-
 152 free number must be disclosed on the label affixed to each
 153 container of dispensed medicinal drugs.

154 Section 7. Paragraph (a) of subsection (1) of section
 155 895.02, Florida Statutes, is amended to read:

156 895.02 Definitions.--As used in ss. 895.01-895.08, the
 157 term:

158 (1) "Racketeering activity" means to commit, to attempt to
 159 commit, to conspire to commit, or to solicit, coerce, or
 160 intimidate another person to commit:

161 (a) Any crime which is chargeable by indictment or
 162 information under the following provisions of the Florida
 163 Statutes:

164 1. Section 210.18, relating to evasion of payment of
 165 cigarette taxes.

166 2. Section 403.727(3)(b), relating to environmental
 167 control.

168 ~~3.4.~~ Section 409.920, relating to Medicaid provider fraud.

169 ~~4.3.~~ Section 414.39, relating to public assistance fraud.

170 5. Section 440.105 or s. 440.106, relating to workers'
 171 compensation.

172 6. Section 465.0161, relating to distribution of medicinal
 173 drugs without a permit as an Internet pharmacy.

174 ~~7.6.~~ Sections 499.0051, 499.0052, 499.0053, 499.0054, and
 175 499.0691, relating to crimes involving contraband and
 176 adulterated drugs.

177 ~~8.7.~~ Part IV of chapter 501, relating to telemarketing.

178 ~~9.8.~~ Chapter 517, relating to sale of securities and
 179 investor protection.

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180 ~~10.9.~~ Section 550.235, s. 550.3551, or s. 550.3605,
181 relating to dogracing and horseracing.

182 ~~11.10.~~ Chapter 550, relating to jai alai frontons.

183 ~~12.11.~~ Chapter 552, relating to the manufacture,
184 distribution, and use of explosives.

185 ~~13.12.~~ Chapter 560, relating to money transmitters, if the
186 violation is punishable as a felony.

187 ~~14.13.~~ Chapter 562, relating to beverage law enforcement.

188 ~~15.14.~~ Section 624.401, relating to transacting insurance
189 without a certificate of authority, s. 624.437(4)(c)1., relating
190 to operating an unauthorized multiple-employer welfare
191 arrangement, or s. 626.902(1)(b), relating to representing or
192 aiding an unauthorized insurer.

193 ~~16.15.~~ Section 655.50, relating to reports of currency
194 transactions, when such violation is punishable as a felony.

195 ~~17.16.~~ Chapter 687, relating to interest and usurious
196 practices.

197 ~~18.17.~~ Section 721.08, s. 721.09, or s. 721.13, relating
198 to real estate timeshare plans.

199 ~~19.18.~~ Chapter 782, relating to homicide.

200 ~~20.19.~~ Chapter 784, relating to assault and battery.

201 ~~21.20.~~ Chapter 787, relating to kidnapping.

202 ~~22.21.~~ Chapter 790, relating to weapons and firearms.

203 ~~23.22.~~ Section 796.03, s. 796.04, s. 796.05, or s. 796.07,
204 relating to prostitution.

205 ~~24.23.~~ Chapter 806, relating to arson.

206 ~~25.24.~~ Section 810.02(2)(c), relating to specified
207 burglary of a dwelling or structure.

208 ~~26.25.~~ Chapter 812, relating to theft, robbery, and
209 related crimes.

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210 ~~27.26.~~ Chapter 815, relating to computer-related crimes.

211 ~~28.27.~~ Chapter 817, relating to fraudulent practices,
212 false pretenses, fraud generally, and credit card crimes.

213 ~~29.28.~~ Chapter 825, relating to abuse, neglect, or
214 exploitation of an elderly person or disabled adult.

215 ~~30.29.~~ Section 827.071, relating to commercial sexual
216 exploitation of children.

217 ~~31.30.~~ Chapter 831, relating to forgery and
218 counterfeiting.

219 ~~32.31.~~ Chapter 832, relating to issuance of worthless
220 checks and drafts.

221 ~~33.32.~~ Section 836.05, relating to extortion.

222 ~~34.33.~~ Chapter 837, relating to perjury.

223 ~~35.34.~~ Chapter 838, relating to bribery and misuse of
224 public office.

225 ~~36.35.~~ Chapter 843, relating to obstruction of justice.

226 ~~37.36.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06,
227 or s. 847.07, relating to obscene literature and profanity.

228 ~~38.37.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or
229 s. 849.25, relating to gambling.

230 ~~39.38.~~ Chapter 874, relating to criminal street gangs.

231 ~~40.39.~~ Chapter 893, relating to drug abuse prevention and
232 control.

233 ~~41.40.~~ Chapter 896, relating to offenses related to
234 financial transactions.

235 ~~42.41.~~ Sections 914.22 and 914.23, relating to tampering
236 with a witness, victim, or informant, and retaliation against a
237 witness, victim, or informant.

238 ~~43.42.~~ Sections 918.12 and 918.13, relating to tampering
239 with jurors and evidence.

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Section 8. This act shall take effect July 1, 2004.