

By Senator Hutson

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1 A bill to be entitled
2 An act relating to the testing for and treatment of
3 influenza and streptococcus; amending s. 381.0031,
4 F.S.; requiring specified licensed pharmacists to
5 report certain information to the Department of
6 Health; amending s. 465.003, F.S.; revising the
7 definition of the term "practice of the profession of
8 pharmacy"; creating s. 465.1895, F.S.; authorizing
9 pharmacists to test for and treat influenza and
10 streptococcus and providing requirements relating
11 thereto; requiring that the written protocol between a
12 pharmacist and supervising physician contain certain
13 information, terms, and conditions; requiring the
14 Board of Pharmacy to adopt rules within a specified
15 time period; requiring that a pharmacist notify a
16 patient's primary care provider within a specified
17 time period after providing any such testing or
18 treatment; providing an effective date.

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

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22 Section 1. Subsection (2) of section 381.0031, Florida
23 Statutes, is amended to read:

24 381.0031 Epidemiological research; report of diseases of
25 public health significance to department.—

26 (2) Any practitioner licensed in this state to practice
27 medicine, osteopathic medicine, chiropractic medicine,
28 naturopathy, or veterinary medicine; any licensed pharmacist
29 authorized pursuant to a written protocol to order and evaluate

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30 laboratory and clinical tests; any hospital licensed under part
31 I of chapter 395; or any laboratory appropriately certified by
32 the Centers for Medicare and Medicaid Services under the federal
33 Clinical Laboratory Improvement Amendments, and the federal
34 rules adopted thereunder, which diagnoses or suspects the
35 existence of a disease of public health significance shall
36 immediately report the fact to the Department of Health.

37 Section 2. Subsection (13) of section 465.003, Florida
38 Statutes, is amended to read:

39 465.003 Definitions.—As used in this chapter, the term:

40 (13) "Practice of the profession of pharmacy" includes
41 compounding, dispensing, and consulting concerning contents,
42 therapeutic values, and uses of any medicinal drug; consulting
43 concerning therapeutic values and interactions of patent or
44 proprietary preparations, whether pursuant to prescriptions or
45 in the absence and entirely independent of such prescriptions or
46 orders; and conducting other pharmaceutical services. For
47 purposes of this subsection, "other pharmaceutical services"
48 means the monitoring of the patient's drug therapy and assisting
49 the patient in the management of his or her drug therapy, and
50 includes review of the patient's drug therapy and communication
51 with the patient's prescribing health care provider as licensed
52 under chapter 458, chapter 459, chapter 461, or chapter 466, or
53 similar statutory provision in another jurisdiction, or such
54 provider's agent or such other persons as specifically
55 authorized by the patient, regarding the drug therapy. However,
56 nothing in this subsection may be interpreted to permit an
57 alteration of a prescriber's directions, the diagnosis or
58 treatment of any disease, the initiation of any drug therapy,

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59 the practice of medicine, or the practice of osteopathic
60 medicine, unless otherwise permitted by law. "Practice of the
61 profession of pharmacy" also includes any other act, service,
62 operation, research, or transaction incidental to, or forming a
63 part of, any of the foregoing acts, requiring, involving, or
64 employing the science or art of any branch of the pharmaceutical
65 profession, study, or training, and shall expressly permit a
66 pharmacist to transmit information from persons authorized to
67 prescribe medicinal drugs to their patients. The practice of the
68 profession of pharmacy also includes the administration of
69 vaccines to adults pursuant to s. 465.189, the testing for and
70 treatment of influenza and streptococcus pursuant to s.
71 465.1895, and the preparation of prepackaged drug products in
72 facilities holding Class III institutional pharmacy permits.

73 Section 3. Section 465.1895, Florida Statutes, is created
74 to read:

75 465.1895 Testing for and treatment of influenza and
76 streptococcus.—

77 (1) A pharmacist may test for and treat influenza and
78 streptococcus if all of the following criteria are met:

79 (a) The pharmacist has entered into a written protocol with
80 a supervising physician licensed under chapter 458 or chapter
81 459, and such protocol complies with the requirements in
82 subsection (5) and board rules.

83 (b) The pharmacist uses an instrument and a waived test, as
84 that term is defined in 42 C.F.R. s. 493.2.

85 (c) The pharmacist uses a testing system that:

86 1. Provides automated readings in order to reduce user
87 subjectivity or interpretation of results.

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88 2. Is capable of directly or indirectly interfacing with
89 electronic medical records systems.

90 3. Is capable of electronically reporting daily
91 deidentified test results to the appropriate agencies.

92 4. Uses an instrument that incorporates both internal and
93 external controls and external calibration that show the reagent
94 and assay procedure is performing properly. External controls
95 must be used in accordance with local, state, and federal
96 regulations and accreditation requirements.

97 (d) The pharmacist is certified to test for and treat
98 influenza and streptococcus pursuant to a certification program
99 approved by the board, in consultation with the Board of
100 Medicine and the Board of Osteopathic Medicine, within 90 days
101 after the date upon which this section becomes effective. The
102 certification program must require that the pharmacist attend,
103 on a one-time basis, 8 hours of continuing education courses
104 approved by the board. The continuing education curriculum must
105 be provided by an organization of instruction approved by the
106 Accreditation Council for Pharmacy Education and must include,
107 at a minimum, point-of-care testing for influenza and
108 streptococcus and the safe and effective treatment of influenza
109 and streptococcus.

110 (2) A pharmacist may not enter into a written protocol
111 under this section unless he or she maintains at least \$200,000
112 of professional liability insurance and is certified as required
113 in paragraph (1) (d).

114 (3) A pharmacist who tests for and treats influenza and
115 streptococcus shall maintain and make available patient records
116 using the same standards for confidentiality and maintenance of

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117 such records as those that are imposed on health care
118 practitioners under s. 456.057. Such records shall be maintained
119 for at least 5 years.

120 (4) The decision by a supervising physician licensed under
121 chapter 458 or chapter 459 to enter into a written protocol
122 under this section is a professional decision on the part of the
123 physician and a person may not interfere with a physician's
124 decision regarding entering into such a protocol. A pharmacist
125 may not enter into a written protocol that is to be performed
126 while acting as an employee without the written approval of the
127 owner of the pharmacy.

128 (5) The board shall adopt rules establishing requirements
129 for the written protocol within 90 days after the date upon
130 which this section becomes effective. At a minimum, the written
131 protocol shall include:

132 (a) The terms and conditions required in s. 465.189(7).

133 (b) Specific categories of patients for whom the
134 supervising physician authorizes the pharmacist to test for and
135 treat influenza and streptococcus.

136 (c) The supervising physician's instructions for the
137 treatment of influenza and streptococcus based on the patient's
138 age, symptoms, and test results, including negative results.

139 (d) A process and schedule for the supervising physician to
140 review the pharmacist's actions under the written protocol.

141 (e) A process and schedule for the pharmacist to notify the
142 supervising physician of the patient's condition, tests
143 administered, test results, and course of treatment.

144 (6) When the patient has a primary care provider, a
145 pharmacist who provides testing for or treatment of influenza

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146 and streptococcus under this section shall notify the patient's
147 primary care provider within 2 business days after providing any
148 such testing or treatment.

149 Section 4. This act shall take effect upon becoming a law.