

Committee Substitute for
Committee Substitute for Senate Bill No. 1294

An act relating to the Florida Pharmacy Act; amending s. 465.003, F.S.; defining the term “automated pharmacy system” for purposes of the Florida Pharmacy Act; amending s. 465.015, F.S.; providing that it is unlawful for a person, firm, or corporation that is not licensed or registered under the act to use certain terms implying that the person, firm, or corporation is so licensed or registered, or to hold himself or herself out as licensed or registered to practice pharmacy in this state; providing penalties; creating s. 465.0235, F.S.; authorizing a pharmacy to provide services to a long-term care facility or hospice licensed under ch. 400, F.S., or a state correctional institution operated under ch. 944, F.S., through an automated pharmacy system; providing that drugs delivered from an automated pharmacy system are considered to have been dispensed by the pharmacy that services a long-term care facility, hospice, or correctional institution; requiring that the operation of an automated pharmacy system be under the supervision of a pharmacist; providing legislative intent relating to automated pharmacy systems; requiring the Board of Pharmacy to adopt rules; amending s. 465.026, F.S.; authorizing a community pharmacy to transmit a prescription for a Schedule II medicinal drug under certain conditions; providing an effective date.

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

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

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

(17) “Automated pharmacy system” means a mechanical system that delivers prescription drugs received from a Florida licensed pharmacy and maintains related transaction information.

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

465.015 Violations and penalties.—

(3)

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

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

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

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

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

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

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

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

(3) The operation of an automated pharmacy system must be under the supervision of a Florida-licensed pharmacist. To qualify as a supervisor for an automated pharmacy system, the pharmacist need not be physically present at the site of the automated pharmacy system and may supervise the system electronically. The Florida-licensed pharmacist shall be required to develop and implement policies and procedures designed to verify that the medicinal drugs delivered by the automated dispensing system are accurate and valid and that the machine is properly restocked.

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

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

(a) Recordkeeping requirements;

(b) Security requirements; and

(c) Labeling requirements that permit the use of unit-dose medications if the facility, hospice, or institution maintains medication-administration records that include directions for use of the medication and the automated pharmacy system identifies;

1. The dispensing pharmacy;
2. The prescription number;
3. The name of the patient; and
4. The name of the prescribing practitioner.

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

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

(7) A community pharmacy licensed under this chapter which only receives and transfers prescriptions for dispensing by another pharmacy may transfer a prescription for a medicinal drug listed in Schedule II under chapter 893. The pharmacy receiving the prescription may ship, mail, or deliver into this state, in any manner, the dispensed Schedule II medicinal drug under the following conditions:

(a) The pharmacy receiving and dispensing the transferred prescription maintains at all times a valid, unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state in which the pharmacy is located and from which the medicinal drugs are dispensed;

(b) The community pharmacy and the receiving pharmacy are owned and operated by the same person and share a centralized database; and

(c) The community pharmacy assures its compliance with the federal laws and subsections (1)-(5).

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

Approved by the Governor May 11, 2004.

Filed in Office Secretary of State May 11, 2004.