

By Senators Sebesta, Lee and Sullivan

20-830-99

See HB

1 A bill to be entitled
 2 An act relating to pharmacy practice; providing
 3 a short title; amending s. 465.003, F.S.;
 4 defining the term "data communication device";
 5 amending s. 465.016, F.S.; providing that using
 6 or releasing a patient's records except as
 7 authorized by chapter 455 or chapter 465, F.S.,
 8 constitutes a ground for disciplinary action
 9 against a pharmacist, for which there are
 10 penalties; amending s. 465.017, F.S.; providing
 11 additional persons to whom and entities to
 12 which records relating to the filling of
 13 prescriptions and the dispensing of medicinal
 14 drugs that are maintained by a pharmacy may be
 15 furnished; specifying authorized uses of
 16 patient records by pharmacy owners; providing
 17 restrictions on such records when transmitted
 18 through a data communication device; amending
 19 ss. 465.014, 465.015, 465.0196, 468.812,
 20 499.003, F.S.; conforming cross-references;
 21 providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. This act may be cited as the "Pharmacy
 26 Patient Privacy Act of 1999."

27 Section 2. Present subsections (4) through (14) of
 28 section 465.003, Florida Statutes, are renumbered as
 29 subsections (5) through (15), respectively, and a new
 30 subsection (4) is added to that section to read:

31

1 465.003 Definitions.--As used in this chapter, the
2 term:

3 (4) "Data communication device" means an electronic
4 device that receives electronic information from one source
5 and transmits or routes it to another, including, but not
6 limited to, any such bridge, router, switch, or gateway.

7 Section 3. Paragraph (q) is added to subsection (1) of
8 section 465.016, Florida Statutes, to read:

9 465.016 Disciplinary actions.--

10 (1) The following acts shall be grounds for
11 disciplinary action set forth in this section:

12 (q) Using or releasing a patient's records except as
13 authorized by this chapter and chapter 455.

14 Section 4. Subsection (2) of section 465.017, Florida
15 Statutes, is amended to read:

16 465.017 Authority to inspect.--

17 (2) Except as permitted by this chapter, and chapters
18 406, 409, 455, 499, and 893, records maintained by ~~in~~ a
19 pharmacy relating to the filling of prescriptions and the
20 dispensing of medicinal drugs shall not be furnished, except
21 upon the written authorization of the patient, to any person
22 other than to the patient for whom the drugs were dispensed,
23 ~~or her or his legal representative, or to the department~~
24 ~~pursuant to existing law,~~ or, in the event that the patient is
25 incapacitated or unable to request such said records, her or
26 his spouse; to the department pursuant to law; to health care
27 practitioners and pharmacists consulting with or dispensing to
28 the patient; or to insurance carriers or other payors
29 authorized by the patient to receive such records. For
30 purposes of this section, records held in a pharmacy shall be
31 considered owned by the owner of the pharmacy. The pharmacy

1 owner may use such records internally in the aggregate without
2 patient identification data, regardless of where such records
3 are held, for purposes reasonably related to the business and
4 practice of only that pharmacy ~~except upon the written~~
5 ~~authorization of such patient.~~ Such records may be furnished
6 in any civil or criminal proceeding, upon the issuance of a
7 subpoena from a court of competent jurisdiction and proper
8 notice to the patient or her or his legal representative by
9 the party seeking such records. Such records or any part
10 thereof, if transmitted through a data communication device
11 not under the control or ownership of a pharmacy or affiliated
12 company or not directly between a pharmacy and a treating
13 practitioner, may not be accessed, used, or maintained by the
14 operator or owner of the data communication device unless
15 specifically authorized by this section. It is the intent of
16 this subsection to allow the use and sharing of such records
17 to improve patient care, provided the pharmacist acts in the
18 best interests of her or his patient. Nothing in this
19 subsection may be construed to authorize or expand
20 solicitation or marketing to patients or potential patients in
21 any manner not otherwise specifically authorized by law.

22 Section 5. Section 465.014, Florida Statutes, is
23 amended to read:

24 465.014 Pharmacy technician.--No person other than a
25 licensed pharmacist or pharmacy intern may engage in the
26 practice of the profession of pharmacy, except that a licensed
27 pharmacist may delegate to nonlicensed pharmacy technicians
28 those duties, tasks, and functions which do not fall within
29 the purview of s. 465.003(13)(12). All such delegated acts
30 shall be performed under the direct supervision of a licensed
31 pharmacist who shall be responsible for all such acts

1 performed by persons under his or her supervision. A pharmacy
2 technician, under the supervision of a pharmacist, may
3 initiate or receive communications with a practitioner or his
4 or her agent, on behalf of a patient, regarding refill
5 authorization requests. No licensed pharmacist shall
6 supervise more than one pharmacy technician unless otherwise
7 permitted by the guidelines adopted by the board. The board
8 shall establish guidelines to be followed by licensees or
9 permittees in determining the circumstances under which a
10 licensed pharmacist may supervise more than one but not more
11 than three pharmacy technicians.

12 Section 6. Paragraph (c) of subsection (2) of section
13 465.015, Florida Statutes, is amended to read:

14 465.015 Violations and penalties.--

15 (2) It is unlawful for any person:

16 (c) To sell or dispense drugs as defined in s.
17 465.003(8)~~(7)~~ without first being furnished with a
18 prescription.

19 Section 7. Section 465.0196, Florida Statutes, is
20 amended to read:

21 465.0196 Special pharmacy permits.--Any person
22 desiring a permit to operate a pharmacy which does not fall
23 within the definitions set forth in s. 465.003(11)~~(10)~~(a)1.,
24 2., and 3. shall apply to the department for a special
25 pharmacy permit. If the board certifies that the application
26 complies with the applicable laws and rules of the board
27 governing the practice of the profession of pharmacy, the
28 department shall issue the permit. No permit shall be issued
29 unless a licensed pharmacist is designated to undertake the
30 professional supervision of the compounding and dispensing of
31 all drugs dispensed by the pharmacy. The licensed pharmacist

1 shall be responsible for maintaining all drug records and for
2 providing for the security of the area in the facility in
3 which the compounding, storing, and dispensing of medicinal
4 drugs occurs. The permittee shall notify the department
5 within 10 days of any change of the licensed pharmacist
6 responsible for such duties.

7 Section 8. Subsection (3) of section 468.812, Florida
8 Statutes, is amended to read:

9 468.812 Exemptions from licensure.--

10 (3) The provisions of this act relating to orthotics
11 or pedorthics do not apply to any licensed pharmacist or to
12 any person acting under the supervision of a licensed
13 pharmacist. The practice of orthotics or pedorthics by a
14 pharmacist or any of the pharmacist's employees acting under
15 the supervision of a pharmacist shall be construed to be
16 within the meaning of the term "practice of the profession of
17 pharmacy" as set forth in s. 465.003(13)(~~12~~), and shall be
18 subject to regulation in the same manner as any other pharmacy
19 practice. The Board of Pharmacy shall develop rules regarding
20 the practice of orthotics and pedorthics by a pharmacist. Any
21 pharmacist or person under the supervision of a pharmacist
22 engaged in the practice of orthotics or pedorthics shall not
23 be precluded from continuing that practice pending adoption of
24 these rules.

25 Section 9. Subsection (19) of section 499.003, Florida
26 Statutes, is amended to read:

27 499.003 Definitions of terms used in ss.

28 499.001-499.081.--As used in ss. 499.001-499.081, the term:

29 (19) "Legend drug," "prescription drug," or "medicinal
30 drug" means any drug, including, but not limited to, finished
31 dosage forms, or active ingredients subject to, defined by, or

1 described by s. 503(b) of the Federal Food, Drug, and Cosmetic
2 Act or s. 465.003(8)~~(7)~~, s. 499.007(12), or s. 499.0122(1)(b)
3 or (c).

4 Section 10. This act shall take effect July 1, 1999.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

LEGISLATIVE SUMMARY

Creates the "Pharmacy Patient Privacy Act of 1999."
Defines the term "data communication device." Provides
that using or releasing a patient's records except as
authorized by chapter 455 or chapter 465, F.S.,
constitutes a ground for disciplinary action against a
pharmacist, for which there are penalties. Provides
additional persons to whom and entities to which records
relating to the filling of prescriptions and the
dispensing of medicinal drugs that are maintained by a
pharmacy may be furnished. Specifies authorized uses of
patient records by pharmacy owners. Provides
restrictions on such records when transmitted through a
data communication device.