By the Committee on Health Care

587-941A-06

1	A bill to be entitled
2	An act relating to medical records; amending s.
3	456.057, F.S.; providing definitions; requiring
4	a health care practitioner's employer who is a
5	records owner and a records custodian to comply
6	with specified requirements for confidentiality
7	and disclosure; amending s. 456.42, F.S.;
8	providing requirements for prescriptions of
9	medicinal drugs by health care practitioners
10	which are electronically generated or
11	transmitted; amending s. 465.025, F.S.;
12	specifying requirements for a prescriber to
13	prevent generic substitution of brand name
14	drugs when a prescription is electronically
15	transmitted or generated; providing an
16	effective date.
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18	Be It Enacted by the Legislature of the State of Florida:
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20	Section 1. Present subsections (3) through (19) of
21	section 456.057, Florida Statutes, are redesignated as
22	subsections (5) through (21), respectively, and new
23	subsections (3) and (4) are added to that section, to read:
24	456.057 Ownership and control of patient records;
25	report or copies of records to be furnished
26	(3) As used in this section, the term "records
27	custodian" means any person or entity that:
28	(a) Maintains documents that are authorized in
29	subsection (2); or
30	(b) Obtains medical records from a records owner.
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1	(4) Any health care practitioner's employer who is a
2	records owner and any records custodian shall maintain records
3	or documents as provided under the confidentiality and
4	disclosure requirements of this section.
5	Section 2. Section 456.42, Florida Statutes, is
6	amended to read:
7	456.42 Written prescriptions for medicinal drugsA
8	written prescription for a medicinal drug issued by a health
9	care practitioner licensed by law to prescribe such drug must
10	be legibly printed or typed so as to be capable of being
11	understood by the pharmacist filling the prescription; must
12	contain the name of the prescribing practitioner, the name and
13	strength of the drug prescribed, the quantity of the drug
14	prescribed in both textual and numerical formats, and the
15	directions for use of the drug; must be dated with the month
16	written out in textual letters; and must be signed by the
17	prescribing practitioner on the day when issued. However, a
18	prescription that is electronically generated and transmitted
19	must contain the name of the prescribing practitioner, the
20	name and strength of the drug prescribed, the quantity of the
21	drug prescribed in numerical format, and the direction for use
22	of the drug and must be dated and signed by the prescribing
23	practitioner only on the day issued, which signature may be in
24	an electronic format as defined in s. 668.003(4).
25	Section 3. Subsection (2) of section 465.025, Florida
26	Statutes, is amended to read:
27	465.025 Substitution of drugs
28	(2) A pharmacist who receives a prescription for a
29	brand name drug shall, unless requested otherwise by the
30	purchaser, substitute a less expensive, generically equivalent
31	drug product that is:

1	(a) Distributed by a business entity doing business,
2	and subject to suit and service of legal process, in the
3	United States; and
4	(b) Listed in the formulary of generic and brand name
5	drug products as provided in subsection (5) for the brand name
6	drug prescribed,
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8	unless the prescriber writes the words "MEDICALLY NECESSARY,"
9	in her or his own handwriting, on the face of a written
10	prescription; $\frac{1}{2}$ unless, in the case of an oral prescription,
11	the prescriber expressly indicates to the pharmacist that the
12	brand name drug prescribed is medically necessary; or unless,
13	in the case of a prescription that is electronically generated
14	and transmitted, the prescriber makes an overt act when
15	transmitting the prescription to indicate that the brand name
16	drug prescribed is medically necessary. When done in
17	conjunction with the electronic transmission of the
18	prescription, the prescriber's overt act indicates to the
19	pharmacist that the brand name drug prescribed is medically
20	necessary.
21	Section 4. This act shall take effect July 1, 2006.
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24	SENATE SUMMARY
25	Requires a health care practitioner's employer who is a records owner and a records custodian to comply with
26	specified requirements for confidentiality and disclosure. Provides requirements on electronically
27	generated or transmitted prescriptions of medicinal drugs by health care practitioners. Specifies requirements for
28	a prescriber to prevent generic substitution of brand name drugs when a prescription is electronically
29	transmitted or generated.
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