

587-941-06

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 clarifying that certain requirements for
9 written prescriptions of medicinal drugs apply
10 to handwritten prescriptions by health care
11 practitioners; 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 Handwritten ~~Written~~ prescriptions for medicinal
8 drugs.--A handwritten ~~written~~ prescription for a medicinal
9 drug issued by a health care practitioner licensed by law to
10 prescribe such drug must be legibly printed or typed so as to
11 be capable of being understood by the pharmacist filling the
12 prescription; must contain the name of the prescribing
13 practitioner, the name and strength of the drug prescribed,
14 the quantity of the drug prescribed in both textual and
15 numerical formats, and the directions for use of the drug;
16 must be dated with the month written out in textual letters;
17 and must be signed by the prescribing practitioner on the day
18 when issued.

19 Section 3. Subsection (2) of section 465.025, Florida
20 Statutes, is amended to read:

21 465.025 Substitution of drugs.--

22 (2) A pharmacist who receives a prescription for a
23 brand name drug shall, unless requested otherwise by the
24 purchaser, substitute a less expensive, generically equivalent
25 drug product that is:

26 (a) Distributed by a business entity doing business,
27 and subject to suit and service of legal process, in the
28 United States; and

29 (b) Listed in the formulary of generic and brand name
30 drug products as provided in subsection (5) for the brand name
31 drug prescribed,

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2 unless the prescriber writes the words "MEDICALLY NECESSARY,"
3 in her or his own handwriting, on the face of a written
4 prescription; ~~or~~ unless, in the case of an oral prescription,
5 the prescriber expressly indicates to the pharmacist that the
6 brand name drug prescribed is medically necessary; or unless,
7 in the case of a prescription that is electronically generated
8 and transmitted, the prescriber makes an overt act when
9 transmitting the prescription to indicate that the brand name
10 drug prescribed is medically necessary. When done in
11 conjunction with the electronic transmission of the
12 prescription, the prescriber's overt act indicates to the
13 pharmacist that the brand name drug prescribed is medically
14 necessary.

15 Section 4. This act shall take effect July 1, 2006.

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18 SENATE SUMMARY

19 Requires a health care practitioner's employer who is a
20 records owner and a records custodian to comply with
21 specified requirements for confidentiality and
22 disclosure. Provides that certain requirements on written
23 prescriptions of medicinal drugs be limited to
24 handwritten prescriptions by health care practitioners.
25 Specifies requirements for a prescriber to prevent
26 generic substitution of brand name drugs when a
27 prescription is electronically transmitted or generated.
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