



Senate

General Assembly

File No. 192

February Session, 2004

Substitute Senate Bill No. 401

Senate, March 23, 2004

The Committee on General Law reported through SEN. COLAPIETRO of the 31st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING ELECTRONIC TRANSMISSION OF PRESCRIPTIONS BETWEEN PRESCRIBERS AND LICENSED PHARMACIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-614 of the general statutes is amended by
2 adding subsection (d) as follows (*Effective October 1, 2004*):

3 (NEW) (d) (1) As used in this subsection, "electronic data
4 intermediary" means an entity that provides the infrastructure that
5 connects the computer systems or other electronic devices utilized by
6 prescribing practitioners with those used by pharmacies in order to
7 facilitate the secure transmission of electronic prescription orders, refill
8 authorization requests, communications and other patient care
9 information between such entities.

10 (2) An electronic data intermediary may transfer electronically
11 transmitted data between a prescribing practitioner licensed and
12 authorized to prescribe and a pharmacy of the patient's choice,

13 licensed pursuant to chapter 400j or licensed under the laws of any
14 other state or territory of the United States. Electronic data
15 intermediaries shall not alter the transmitted data except as necessary
16 for technical processing purposes. Electronic data intermediaries may
17 archive copies of only that electronic data related to such transmissions
18 necessary to provide for proper auditing and security of such
19 transmissions. Such data shall only be maintained for the period
20 necessary for auditing purposes. Electronic data intermediaries shall
21 maintain patient privacy and confidentiality of all archived
22 information as required by state and federal law.

23 (3) No electronic data intermediary shall operate without the
24 approval of the Commissioner of Agriculture and Consumer
25 Protection. An electronic data intermediary seeking approval shall
26 apply to the Commission of Pharmacy in the manner prescribed by the
27 commissioner. The commissioner, with the advice and assistance of the
28 commission, shall adopt regulations, in accordance with the provisions
29 of chapter 54 of the general statutes, to establish criteria for the
30 approval of electronic data intermediaries, including requirements for
31 (A) the procedures to be used for the transmission and retention of
32 prescription data by an intermediary and (B) mechanisms to be used
33 by an intermediary to safeguard the confidentiality of such data.

34 Sec. 2. Section 21a-249 of the general statutes, as amended by section
35 146 of public act 03-6 of the June 30 special session, is amended by
36 adding subsection (m) as follows (*Effective October 1, 2004*):

37 (NEW) (m) (1) As used in this subsection, "electronic data
38 intermediary" means an entity that provides the infrastructure that
39 connects the computer systems or other electronic devices utilized by
40 prescribing practitioners with those used by pharmacies in order to
41 facilitate the secure transmission of electronic prescription orders, refill
42 authorization requests, communications and other patient care
43 information between such entities.

44 (2) An electronic data intermediary may transfer electronically
45 transmitted data between a prescribing practitioner licensed and

46 authorized to prescribe and a pharmacy of the patient's choice,
47 licensed pursuant to chapter 400j or licensed under the laws of any
48 other state or territory of the United States. Electronic data
49 intermediaries shall not alter the transmitted data except as necessary
50 for technical processing purposes. Electronic data intermediaries may
51 archive copies of only that electronic data related to such transmissions
52 necessary to provide for proper auditing and security of such
53 transmissions. Such data shall only be maintained for the period
54 necessary for auditing purposes. Electronic data intermediaries shall
55 maintain patient privacy and confidentiality of all archived
56 information as required by state and federal law.

57 (3) No electronic data intermediary shall operate without the
58 approval of the Commissioner of Agriculture and Consumer
59 Protection. An electronic data intermediary seeking such approval
60 shall apply to the Commission of Pharmacy in the manner prescribed
61 by the commissioner. The commissioner, with the advice and
62 assistance of the commission, shall adopt regulations, in accordance
63 with the provisions of chapter 54 of the general statutes, to establish
64 criteria for the approval of electronic data intermediaries, including
65 requirements for (A) the procedures to be used for the transmission
66 and retention of prescription data by an intermediary and (B)
67 mechanisms to be used by an intermediary to safeguard the
68 confidentiality of such data.

69 Sec. 3. Section 20-612 of the general statutes is repealed and the
70 following is substituted in lieu thereof (*Effective October 1, 2004*):

71 [Only] Subject to the provisions of subsection (d) of section 20-614,
72 as amended by this act, and subsection (m) of section 21a-249, as
73 amended by this act, only a pharmacy shall accept a prescription for
74 dispensing. No employee, personnel or owner of a place of business or
75 establishment not licensed as a pharmacy may accept a prescription for
76 transfer to or for collection for a pharmacy.

This act shall take effect as follows:

Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows electronic data intermediaries to transfer data between a practitioner and a pharmacy. Under the bill, the Department of Consumer Protection is required to adopt regulations establishing approval criteria for electronic intermediaries. The bill has no fiscal impact on the Department of Consumer Protection.

OLR Bill Analysis

sSB 401

AN ACT CONCERNING ELECTRONIC TRANSMISSION OF PRESCRIPTIONS BETWEEN PRESCRIBERS AND LICENSED PHARMACIES**SUMMARY:**

This bill allows electronic data intermediaries to transfer data between a licensed prescribing practitioner and a pharmacy chosen by the patient and licensed in the United States under state or territorial law. It defines “electronic data intermediaries” as entities that provide the infrastructure to connect a prescribing practitioner’s computer system or other electronic devices with those of a pharmacy to transmit (1) electronic prescription orders, (2) refill authorization requests, (3) communications, and (4) other patient care information. It prohibits the electronic data intermediaries from altering data except as necessary for technical processing purposes.

The bill allows electronic data intermediaries to transmit prescriptions and refill authorizations for controlled substances, but controlling federal law on controlled substances does not allow electronic data intermediaries to transmit prescriptions for controlled substances (see COMMENT).

It allows and sets conditions on archiving data.

It requires electronic data intermediaries to obtain the approval of the commissioner of the Department of Agriculture and Consumer Protection (DACP).

EFFECTIVE DATE: October 1, 2004

ARCHIVED DATA

The bill allows intermediaries to archive only the electronic transmission data necessary to provide for proper auditing and security of transmissions. The data may be kept only for the period necessary for auditing purposes. The bill requires electronic data

intermediaries to keep patient privacy and confidentiality of all archived information as required by state and federal law. However, there appears to be no state laws that specifically apply to electronic data intermediaries and it is unclear whether federal regulations apply (see BACKGROUND).

DACP APPROVAL

The bill requires an electronic data intermediary seeking DACP approval to apply to the commissioner. It requires him, with the advice and assistance of the Pharmacy Commission, to adopt regulations establishing approval criteria. These must include requirements for the intermediaries to (1) follow procedures to transmit and retain prescription data and (2) use mechanisms to safeguard the confidentiality of this data.

COMMENT

Transmitting Prescriptions for Controlled Substances

Federal regulations control how prescriptions for controlled substances may be sent from prescribing practitioners to pharmacies. They require a prescription for a substance listed in Schedule II to be written, except in emergencies (13 CFR § 1306.11). They require a prescription for a substance listed in Schedules III, IV, and V to be written and signed. The prescription may be conveyed by facsimile (21 CFR § 1306.21). Federal law does not allow prescriptions for controlled substances to be sent through electronic data intermediaries.

Controlled substances are grouped in Schedules I through V, according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs on Schedules II through V; most Schedule I drugs do not have any approved medical use.

BACKGROUND

Confidentiality Laws

State law apparently does not have any provisions specifically requiring electronic data intermediaries to keep information confidential. The confidentiality provision in the Pharmacy Practice

Act applies to pharmacists and pharmacies (CGS § 20-626). The federal Health Insurance Portability and Accountability Act's (HIPAA) regulations apply to health plans, health care clearinghouses, and health care providers who conduct business electronically (45 CFR Part 160). The regulations set confidentiality standards and penalties for these covered entities. If the electronic data intermediaries are considered to be covered entities, the HIPAA confidentiality standards apply. Generally, these provide that an individual's health information may only be used for health purposes.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 19 Nay 0