

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2110

Session of
1991

INTRODUCED BY HARLEY, PETRARCA, DENT, REINARD, ALLEN, FARGO,
FAIRCHILD, NAHILL, FOX, JOSEPHS, BILLOW, KRUSZEWSKI, SCHEETZ,
CLARK, TOMLINSON, CLYMER, WOZNIAK, OLASZ, BATTISTO, LAUGHLIN,
JOHNSON, GERLACH, McHALE, M. N. WRIGHT, LAWLESS, GLADECK,
STETLER, TRELLO, KING, J. TAYLOR, FAJT, KASUNIC, ITKIN,
DeLUCA, FLICK AND GODSHALL, NOVEMBER 12, 1991

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 2, 1992

AN ACT

1 Providing for the improper release of information regarding
2 patients of health care practitioners; and providing for
3 penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Definitions.

7 The following words and phrases when used in this act shall
8 have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 ~~"Health care practitioner." A physician as defined in the~~ <—
11 ~~act of October 5, 1978 (P.L.1109, No.261), known as the~~
12 ~~Osteopathic Medical Practice Act, or a medical doctor as defined~~
13 ~~by the act of December 20, 1985 (P.L.457, No.112), known as the~~
14 ~~Medical Practice Act of 1985.~~

15 "HEALTH CARE PRACTITIONER." AN INDIVIDUAL WHO IS AUTHORIZED <—
16 TO PRACTICE A HEALING ART BY A LICENSE, CERTIFICATE OR

1 REGISTRATION ISSUED BY A LICENSING BOARD IN THE DEPARTMENT OF
2 STATE.

3 Section 2. Termination of practice.

4 (a) General rule.--A health care practitioner shall give
5 written notice to each patient not later than 60 days prior to
6 leaving practice.

7 (b) Content of notice.--The notice required under subsection
8 (a) shall include a statement that the patient's records are
9 confidential and will not be sold or otherwise made available to
10 another health care practitioner if the patient objects. The
11 notice shall also include such additional information as the
12 health care practitioner deems appropriate or as the health care
13 practitioner's licensing board directs.

14 (c) Publication.--In addition to the notice required under
15 subsection (a), a health care practitioner shall cause a similar
16 notice to be published not later than 60 days prior to leaving
17 practice in the same manner as notices of disciplinary action
18 are published in accordance with section 810(a)(10) of the act
19 of April 9, 1929 (P.L.177, No.175), known as The Administrative
20 Code of 1929.

21 Section 3. Estates.

22 (a) General rule.--The estate of a health care practitioner
23 shall give written notice to each patient not later than 60 days
24 prior to selling the patient's records or otherwise making them
25 available.

26 (b) Content of notice.--The notice required under subsection
27 (a) shall include a statement that the patient's records are
28 confidential and will not be sold or otherwise made available to
29 another health care practitioner if the patient objects. The
30 notice shall also include such additional information as the

1 estate deems appropriate or as the deceased health care
2 practitioner's licensing board directs.

3 (c) Publication.--In addition to the notice required under
4 subsection (a), the estate shall cause a similar notice to be
5 published not later than 60 days prior to selling the patient's
6 records or otherwise making them available to another health
7 care practitioner in the same manner as notices of disciplinary
8 action are published in accordance with section 810(a)(10) of
9 the act of April 9, 1929 (P.L.177, No.175), known as The
10 Administrative Code of 1929.

11 Section 4. Restrictions on transfer.

12 (a) Objection to practitioner.--A written notice from a
13 patient to a health care practitioner objecting to having the
14 patient's records sold or otherwise made available to another
15 health care practitioner shall be sufficient to impose a duty on
16 the patient's health care practitioner not to sell or otherwise
17 make the records available to another health care practitioner
18 if the written notice is received by the health care
19 practitioner prior to the date on which the health care
20 practitioner leaves practice or, if later, prior to the date on
21 which the health care practitioner sells the records or
22 otherwise makes them available to another health care
23 practitioner.

24 (b) Objection to estate.--A written notice from a patient to
25 the estate of a health care practitioner objecting to having the
26 patient's records sold or otherwise made available to another
27 health care practitioner shall be sufficient to impose a duty on
28 the estate not to sell or otherwise make the records available
29 to another health care practitioner if the written notice is
30 received by the estate within 60 days after notice is given

1 under section 3(a), within 60 days after publication under
2 section 3(c) or prior to the date on which the estate sells the
3 records or otherwise makes them available to another health care
4 practitioner, whichever is later.

5 (c) Consent required for practitioner.--Unless the patient
6 consents in writing, a health care practitioner, in conjunction
7 with leaving practice or otherwise, shall not sell a patient's
8 records to a health care practitioner of another discipline or
9 sell a patient's records other than in the course of a
10 professional business transaction.

11 (d) Consent required for estate.--Unless the patient
12 consents in writing, the estate of a health care practitioner
13 shall not sell a patient's records to a health care practitioner
14 of another discipline or sell a patient's records other than in
15 the course of a professional business transaction.

16 SECTION 5. CONSEQUENCES OF OBJECTION. <—

17 A PRACTITIONER OR ESTATE WHO RECEIVES WRITTEN NOTICE UNDER
18 SECTION 4 WHICH FAILS TO PROVIDE THE NAME OF A PRACTITIONER TO
19 WHOM RECORDS SHALL BE FORWARDED SHALL CONVEY THE RECORDS TO THE
20 DEPARTMENT OF HEALTH.

21 Section 5 6. Penalty. <—

22 Any health care practitioner and any executor of a health
23 care practitioner's estate who knowingly and intentionally sells
24 or makes a patient's records available in violation of this act
25 commits a misdemeanor of the third degree.

26 SECTION 7. WAIVER. <—

27 THIS ACT SHALL NOT APPLY TO THE SALE, BY A HEALTH CARE
28 PRACTITIONER OR THE PRACTITIONER'S ESTATE, OF THE HEALTH CARE
29 PRACTITIONER'S SHARE OF A PRACTICE ORGANIZED AS A PARTNERSHIP,
30 ASSOCIATION OR CORPORATION UNDER 15 PA.C.S. (RELATING TO

1 CORPORATIONS AND UNINCORPORATED ASSOCIATIONS) IF ALL OF THE
2 FOLLOWING APPLY:

3 (1) THE DAILY BUSINESS OPERATIONS OF THE PRACTICE
4 PROVIDE FOR PATIENT VISITS TO ROTATE AMONG THE TREATING
5 PRACTITIONERS ON THE BASIS OF HOURS SCHEDULED ON CALL, DAY OF
6 THE WEEK, OR ANOTHER PREDETERMINED SYSTEM.

7 (2) THE HEALTH CARE PRACTITIONER'S SHARE IS PURCHASED BY
8 A SUCCESSOR WHO IS:

9 (I) LICENSED BY THE SAME LICENSING BOARD AS THE
10 HEALTH CARE PRACTITIONER; AND

11 (II) CHOSEN BY THE CONTINUING SHAREHOLDERS AS A
12 PARTICIPANT IN THE PARTNERSHIP, ASSOCIATION OR
13 PROFESSIONAL CORPORATION.

14 Section 6 8. Effective date.

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15 This act shall take effect in 60 days.