

Blog Post

Not Without Their Parents – No Pharmacy Services to Florida Minors without Parental Consent

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By Martin R. Dix

Pharmacists and other providers should beware of a medical consent requirement buried in the new “Parents’ Bill of Rights” signed by Governor Desantis. The law will be codified at Fla. Statutes § 1014.06 and became effective on July 1, 2021. While most see it as an educational bill that allows parents to be more involved in decisions about the education of their children, there are also requirements for “Health Care Practitioners.” The term “health care practitioners,” 456.001, F.S., is defined in Chapter 456, Florida Statutes, and includes all licensees and permittees authorized by the Department of Health, including pharmacists and pharmacies, physicians, nurses, etc. The law states that, except as otherwise required by law, health care practitioners, or persons employed by them, may not provide “health care services” or prescribe medicinal drugs to a minor, without first obtaining written parental consent. There is a similar requirement for health care facilities. This law does not affect most health care providers and facilities as most already seek and obtain such parental consents in advance of treating minors. However, except for when they provide immunizations, pharmacies have not historically obtained written consents from a minor’s parents.

So, what constitutes health care services? The term is not defined in the bill, but it has been used in the

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Florida Statutes in other contexts and the legislature is generally presumed to refer to these other definitions when using a term. The insurance code provides that: “health care services” means the “screening, assessment, diagnosis, and treatment of a patient conducted within the competency and training of the health care provider for the purpose of promoting health or detecting and managing disease or injury.” [624.27, FS] This definition likely covers a pharmacist or pharmacy administering vaccines or dispensing medications to a minor. Indeed, one wonders if this law was specifically intended to target pharmacists and dispensing pharmacies since the prescribing physician likely already obtained parental consent before prescribing. The law excluded clinical laboratories, presumably for that very reason.

What about the delivery of other health care services? Often pharmacists are asked by customers about which over-the-counter medications are best for certain symptoms or perhaps whether to take a particular medicine with meals. Does the pharmacist have to check the customer’s ID to see if he/she is a minor and if so, obtain the parent’s written consent before responding to such questions? Won’t this impede the delivery of health care? Hopefully, such a strict interpretation of this law would not occur.

The Board of Pharmacy discussed some of these issues at its June 9, 2021, Rules Committee Meeting. The law also provides that violation of the parental consent requirement would be grounds for professional discipline. Board members discussed that discipline should rarely be meted out for a violation of this law. While the Board members’ commentary could provide some comfort, they should not be deemed protection from enforcement. These comments do not appear in the minutes and, regardless, future Boards with different membership may apply and enforce laws differently, so there is no guarantee that a future Board of Pharmacy would decline to impose discipline for a reported violation of this law. Moreover, as required, the Board did

adopt disciplinary guidelines that would allow a minimum of a \$250 fine for a violation, so enforcement is clearly contemplated. Therefore, pharmacies, and other health care practitioners and facilities should develop policies and procedures to assure they can identify instances when minors are provided health care services and develop parental consent forms to be signed in advance of providing that care.

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