

ASSEMBLY, No. 1956

STATE OF NEW JERSEY

INTRODUCED MAY 6, 1996

By Assemblywoman WEINBERG, Assemblyman ZISA,
Assemblywoman Quigley and Assemblyman Impreveduto

1 AN ACT concerning pharmaceutical practice and amending P.L.1993,
2 c.120.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1993, c.120 (C.45:14-15.2) is amended to read
8 as follows:

9 2. a. A pharmacist shall offer to counsel any person who presents
10 a new prescription for filling. The offer to counsel may be made in any
11 manner the pharmacist deems appropriate in his professional judgment,
12 and shall include any one or a combination of the following:

13 (1) Face-to-face communication with the pharmacist;

14 (2) Face-to-face communication with ancillary personnel; or

15 (3) By telephone.

16 For the purpose of Medicaid or other third-party reimbursement or
17 payment programs, any of the above methods, or a combination of
18 them, shall constitute an acceptable offer to provide counseling except
19 to the extent this subsection is inconsistent with regulations
20 promulgated by the federal Health Care Financing Administration
21 pursuant to 42 U.S.C. §1396r-8 (g)(2)(A)(ii).

22 b. If, in the professional judgment of the pharmacist, it is
23 inappropriate or inadequate to verbally make the offer to counsel, the
24 offer to counsel may be made in a written communication.

25 c. A pharmacist may offer to counsel any person who receives a
26 refill prescription in accordance with the provisions of this section to
27 the extent he deems appropriate in his professional judgment.

28 d. If the offer to counsel is accepted, the pharmacist shall counsel
29 the person presenting the prescription to the extent the pharmacist
30 deems appropriate in his professional judgment. Counseling shall be
31 performed by the pharmacist himself and may, but need not, include
32 the following:

33 (1) The name and description of the medication;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (2) The dosage form, dosage, route of administration, and duration
2 of drug therapy;
- 3 (3) Special directions and precautions for preparation,
4 administration, and use by the patient;
- 5 (4) Common adverse or severe side effects or interactions and
6 therapeutic contraindications that may be encountered, including their
7 avoidance, and the action required if they occur;
- 8 (5) Techniques for self-monitoring drug therapy;
- 9 (6) Proper storage;
- 10 (7) Prescription refill information; and
- 11 (8) Action to be taken in the event of a missed dose.

12 e. Nothing in this section shall be construed as requiring a
13 pharmacist to provide counseling when the person presenting the
14 prescription fails to accept the pharmacist's offer to counsel. If the
15 prescription is filled for a person residing outside of the local
16 telephone calling area of the pharmacy, the pharmacist shall either
17 provide a toll-free telephone number or accept reasonable collect calls
18 from the person.

19 f. The pharmacist shall document the offer to counsel by asking the
20 person presenting the new prescription to indicate, on a form and in a
21 manner to be prescribed by the board, the person's acceptance or
22 failure to accept the offer to counsel.

23 g. A pharmacist who dispenses a prescription to a New Jersey
24 resident from an out-of-State mail-order pharmacy shall offer to
25 counsel the prescription recipient by telephone in accordance with the
26 provisions of this section and shall either provide a toll-free telephone
27 number or accept reasonable collect calls from the New Jersey resident
28 for that purpose.

29 If the mail-order pharmacy is unable to make the offer to counsel
30 by telephone, it shall make the offer in writing. The mail-order
31 pharmacy shall document in writing all attempts to contact the
32 prescription recipient, whether successful or not.

33 h. A pharmacist who fails to offer to provide counseling, or to
34 provide counseling to a person who accepts an offer to counsel, in
35 accordance with the provisions of this section is liable to a written
36 reprimand from the board for a first offense and a civil penalty in the
37 amount of \$100 for a second offense and \$500 for a third and each
38 such subsequent offense, to be recovered by and in the name of the
39 board. The proceedings shall be summary and in accordance with "the
40 penalty enforcement law," N.J.S.2A:58-1 et seq.

41 (cf: P.L.1993, c.120, s.2)

42

43 2. Section 3 of P.L.1993, c.120 (C.45:14-15.3) is amended to read
44 as follows:

45 3. a. A patient profile system must be maintained by all pharmacies
46 for persons for whom prescriptions are dispensed and by all

1 out-of-State mail-order pharmacies for each New Jersey resident for
2 whom a prescription is dispensed. The patient profile record system
3 shall be devised so as to enable the immediate retrieval of information
4 necessary to enable the dispensing pharmacist to identify previously
5 dispensed medication at the time a prescription is presented for
6 dispensing. One profile record may be maintained for members of a
7 family living at the same address and possessing the same family name.

8 b. The following information generated at the individual pharmacy
9 shall be recorded in the patient profile system:

10 (1) The family name and the first name of the person for whom the
11 medication is intended (the patient);

12 (2) The address and telephone number of the patient;

13 (3) Indication of the patient's age, birth date or age group (infant,
14 child, adult) and gender;

15 (4) The original or refill date the medication is dispensed and the
16 initials of the dispensing pharmacist, if said initials and such date are
17 not recorded on the back of the original prescription or in any other
18 record approved by the New Jersey State Board of Pharmacy;

19 (5) The number or designation identifying the prescription;

20 (6) The prescriber's name;

21 (7) The name, strength and quantity of the drug dispensed;

22 (8) Individual history where significant, including known allergies
23 and drug reactions, and a comprehensive list of medications and
24 relevant devices; and

25 (9) Any additional comments relevant to the patient's drug use,
26 including [any] a written record of a person's acceptance or failure to
27 accept the pharmacist's offer to counsel, in accordance with the
28 provisions of subsection f. of section 2 of P.L.1993, c.120
29 (C.45:14-15.2).

30 c. The information obtained shall be recorded in the patient's
31 manual or electronic profile, or in the prescription signature log, or in
32 any other system of records, and may be considered by the pharmacist
33 in the exercise of his professional judgment concerning both the offer
34 to counsel and content of counseling. The absence of any record of a
35 failure to accept the pharmacist's offer to counsel shall be presumed to
36 signify that the offer was accepted and that the counseling was
37 provided.

38 (cf: P.L.1993, c.120, s.3)

39
40 3. This act shall take effect immediately.

41
42
43 STATEMENT

44
45 This bill strengthens the requirement in existing law that a
46 pharmacist offer to provide counseling to a person who presents a new

1 prescription for filling. The bill does this in two ways. First, it
2 requires that a pharmacist document the offer to counsel by asking the
3 person presenting the new prescription to indicate, on a form and in a
4 manner to be prescribed by the State Board of Pharmacy, the person's
5 acceptance or failure to accept the offer to counsel. Second, the bill
6 imposes penalties on a pharmacist who fails to offer to provide
7 counseling, or to provide counseling to a person who accepts an offer
8 to counsel.

9 This bill is in response to an undercover survey by the State Board
10 of Pharmacy reported in The Sunday Record of Bergen County
11 (September 17, 1995), which indicated that most pharmacies rarely
12 counsel consumers as required by law, and that most consumers are
13 unaware of the counseling requirement.

14 The bill would also require that: (1) a pharmacist who dispenses a
15 prescription to a New Jersey resident from an out-of-State mail-order
16 pharmacy offer to provide counseling by telephone and either provide
17 a toll-free telephone number or accept reasonable collect calls from the
18 New Jersey resident for that purpose; and (2) a patient profile system
19 be maintained by all out-of-State mail-order pharmacies for each New
20 Jersey resident for whom a prescription is dispensed.

21

22

23

24

25 Strengthens requirement that pharmacists offer to counsel persons
26 presenting new prescriptions for filling.