



State of Tennessee

PUBLIC CHAPTER NO. 883

HOUSE BILL NO. 1993

By Representatives Gant, Rudd, Travis, Keisling, Ragan, Reedy, Butt, Staples, Holsclaw, Williams, Whitson, Kumar, Sherrell, Madam Speaker Harwell, Johnson, Moon, Zachary, Carr, Matlock, Shaw, Halford, Hawk, McCormick, Tillis, Marsh, Kevin Brooks, Mark White, Howell, Fitzhugh, Powers, Hicks

Substituted for: Senate Bill No. 2191

By Senator Lundberg

AN ACT to amend Tennessee Code Annotated, Title 53; Title 56; Title 63 and Title 68, relative to electronic prescriptions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) As used in this section, "electronic prescription" means a written prescription that is generated on an electronic application and is transmitted in accordance with 21 CFR Part 1311.

(b) Subject to subsection (c), any written, printed, or electronic prescription order for a Schedule II controlled substance prepared by a health care prescriber who is authorized by law to prescribe a drug must be legibly printed, entered, or typed as a separate prescription order. The written, printed, or electronic prescription order must contain all information otherwise required by law. The health care prescriber must sign the written, printed, or electronic prescription order on the day it is issued. Nothing in this section shall be construed to prevent a health care prescriber from issuing a verbal prescription order.

(c) Subject to subsection (d) of this section, on or after January 1, 2020, any prescription for a Schedule II controlled substance shall be issued as an electronic prescription from the person issuing the prescription to a pharmacy. The name, address, and telephone number of the collaborating physician of an advanced practice registered nurse or physician assistant shall be included on the electronic prescription.

(d) Subsection (c) does not apply to prescriptions:

- (1) Issued by veterinarians;
- (2) Issued in circumstances where electronic prescribing is not available due to technological or electrical failure, as set forth in rule;
- (3) Issued by a health care prescriber to be dispensed by a pharmacy located outside the state, as set forth in rule;
- (4) Issued when the health care prescriber and dispenser are the same entity;
- (5) Issued while including elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard;
- (6) Issued by a health care prescriber for a drug that the federal food and drug administration (FDA) requires the prescription to contain certain elements that are not able to be accomplished with electronic prescribing;

(7) Issued by a health care prescriber allowing for the dispensing of a non-patient-specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative pharmacy practice agreement in response to a public health emergency, or in other circumstances where the health care prescriber may issue a non-patient-specific prescription;

(8) Issued by a health care prescriber prescribing a drug under a research protocol;

(9) Issued by a health care prescriber who has received a waiver or a renewed waiver for a specified period determined by the commissioner of health, not to exceed one (1) year without renewal by the commissioner, from the requirement to use electronic prescribing, pursuant to a process established in rule by the commissioner, due to economic hardship, technological limitations that are not reasonably within the control of the health care prescriber, or other exceptional circumstance demonstrated by the health care prescriber;

(10) Issued by a health care prescriber under circumstances where, notwithstanding the health care prescriber's present ability to make an electronic prescription as required by this subsection (a), the health care prescriber reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition;

(11) Issued by a health care prescriber who issues fifty (50) or fewer prescriptions for Schedule II controlled substances per year.

(e) A pharmacist who receives a written, oral, or faxed prescription is not required to verify with the health care prescriber that the prescription properly falls under one (1) of the exceptions from the requirement to electronically prescribe in subsection (d). Pharmacists may continue to dispense medications from otherwise valid written, oral, or fax prescriptions that are consistent with § 53-11-308.

(f) The commissioner of health shall refer individual health care prescribers who violate this section to the health care prescriber's licensing board, and for such violation in this section, the health care prescriber is subject to penalties under § 63-1-134.

(g) Any health-related board under § 68-1-101(a)(8) that is affected by this section, shall report to the general assembly by January 1, 2019, on issues related to the implementation of this section.

SECTION 2. Tennessee Code Annotated, Section 53-11-308, is amended by deleting subsections (a) and (b) and substituting instead the following:

(a) Except when dispensed directly by a health care prescriber other than a pharmacy to an ultimate user, no controlled substance in Schedule II may be dispensed without the electronic prescription of a health care prescriber, unless authorized by Section 1 of this act. To the extent federal law does not permit an electronic prescription, a written prescription from a health care prescriber is required.

(b) In emergency situations, Schedule II drugs may be dispensed upon oral prescription of a health care prescriber, reduced promptly to writing or to electronic form, as appropriate, and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of § 53-11-306. No prescription for a Schedule II substance may be refilled.

SECTION 3. Tennessee Code Annotated, Section 63-3-128, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 63-5-122(g), is amended by deleting the subsection in its entirety.

SECTION 5. Tennessee Code Annotated, Section 63-6-239, is amended by deleting the section in its entirety.

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SECTION 6. Tennessee Code Annotated, Section 63-7-123(b)(3)(F), is amended by deleting the subdivision in its entirety.

SECTION 7. Tennessee Code Annotated, Section 63-8-129, is amended by deleting the section in its entirety.

SECTION 8. Tennessee Code Annotated, Section 63-9-118, is amended by deleting the section in its entirety.

SECTION 9. Tennessee Code Annotated, Section 63-19-107(2)(G), is amended by deleting the subdivision in its entirety.

SECTION 10. The commissioner of health is authorized to promulgate rules to effectuate the purposes of this act. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 11. Tennessee Code Annotated, Section 63-10-215(a), is amended by deleting the language "63-3-128, 63-5-122(g), 63-6-239, 63-8-129, 63-9-118, 63-7-123(b)(3)(B) and (F) and 63-19-107(2)(E)(ii) and (2)(G)" and substituting instead the language "Section 1 of this act, 63-7-123(b)(3)(B), and 63-19-107(2)(E)(ii)".

SECTION 12. For rulemaking purposes, this act shall take effect on becoming a law, and for all other purposes, this act shall take effect on January 1, 2019, the public welfare requiring it.

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PASSED: April 19, 2018


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES


RANDY MCNALLY
SPEAKER OF THE SENATE

APPROVED this 3rd day of May 2018


BILL HASLAM, GOVERNOR