SPONSOR: Rep. Heffernan & Rep. Baumbach & Sen. McDowell
Reps. Bentz, Lynn, Mitchell, Ramone, Seigfried; Sens. Ennis, Hocker, Paradee, Sokola, Townsend

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 115

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PRESCRIPTIONS.

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

Section 1. Amend Chapter 5, of Title 24, of the Delaware Code by making deletions as shown by strike through, insertions as shown by underline and redesignating as follows:

§ 502 Definitions.

( ) "Electronic prescription means a prescription that is generated on an electronic application and transmitted as an electronic data file.

§ 518A. Prescription requirements.

(a) No written prescription shall be prescribed if it does not contain the following information clearly written, clearly hand printed, electronically printed, or typed:

(1) The name, address and phone number of the prescriber;

(2) The name and strength of the drug prescribed;

(3) The quantity of the drug prescribed;

(4) The directions for use of the drug;

(5) Date of issue.

(b) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

(1) issued by a veterinarian.

(2) issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation established by the Board.

(3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations established by the Board.

(4) issued when the prescriber and dispenser are the same entity.

(5) issued that include 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 practitioner for a drug that the Federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be accomplished with electronic prescribing.

(7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-patient specific prescription.

(8) issued by a practitioner prescribing a drug under a research protocol.

(9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations established by the Board, due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

(10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, such practitioner 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.

(c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are otherwise legal.

Section 2. Amend Chapter 11, of Title 24 of the Delaware Code by making deletions as shown by strike through, insertions as shown by underline and redesignating as follows:

§ 1101 Definitions.

( ) “Electronic prescription means a prescription that is generated on an electronic application and transmitted as an electronic data file.

§ 1137. Prescription requirements.

(a) No written prescription shall be prescribed if it does not contain the following information clearly written, clearly hand printed, electronically printed, or typed:

(1) The name, address and phone number of the prescriber;

(2) The name and strength of the drug prescribed;

(3) The quantity of the drug prescribed;

(4) The directions for use of the drug;

(5) Date of issue.

(b) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

(1) issued by a veterinarian.

(2) issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation established by the Board.

(3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations established by the Board.

(4) issued when the prescriber and dispenser are the same entity.

(5) issued that include 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 practitioner for a drug that the Federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be prescribed with electronic prescribing.

(7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-patient specific prescription.

(8) issued by a practitioner prescribing a drug under a research protocol.

(9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations established by the Board, due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

(10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, such practitioner 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.

(c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are otherwise legal.

Section 3. Amend Chapter 17, of Title 24 of the Delaware Code by making deletions as shown by strike through, insertions as shown by underline and redesignating as follows:

§ 1702 Definitions.

( ) "Electronic prescription means a prescription that is generated on an electronic application and transmitted as an electronic data file.

§ 1764A. Prescription requirements.

(a) No written prescription shall be prescribed if it does not contain the following information clearly written, clearly hand printed, electronically printed, or typed:

(1) The name, address and phone number of the prescriber;

(2) The name and strength of the drug prescribed;

(3) The quantity of the drug prescribed;

(4) The directions for use of the drug;

(5) Date of issue.

(b) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

(1) issued by a veterinarian.

(2) issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation established by the Board.

(3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations established by the Board.

(4) issued when the prescriber and dispenser are the same entity.

(5) issued that include 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 practitioner for a drug that the Federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be prescribed with electronic prescribing.

(7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-patient specific prescription.

(8) issued by a practitioner prescribing a drug under a research protocol.

(9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations established by the Board, due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

(10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, such practitioner 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.

(c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are otherwise legal.

Section 4. Amend Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strike through, insertions as shown by underline and redesignating as follows:

§ 1902 Definitions.

( ) "Electronic prescription means a prescription that is generated on an electronic application and transmitted as an electronic data file.

§ 1927. Prescription requirements.

An APRN licensed by the Board may prescribe, order, procure, administer, store, dispense and furnish over the counter, legend and controlled substances pursuant to applicable state and federal laws and within the APRN's role and population focus.

(1) Written, verbal or electronic prescriptions and orders shall comply with all applicable state and federal laws.

(2) All prescriptions shall be clearly written, clearly hand-printed, electronically printed, or typed and shall include, but not be limited to, the following information:

a. The name, title, address, phone number, and registration number of the prescriber;

b. Name of patient;

c. Date of prescription;

d. Full name of the drug, dosage, route, amount to be dispensed and directions for its use;

e. Number of refills;

f. Signature of prescriber on written prescription;

g. DEA number of the prescriber on all scheduled drugs.

(3) APRNs may receive, sign for, record and distribute samples to patients. Distribution of drug samples shall be in accordance with state law and federal Drug Enforcement Administration laws, regulations and guidelines.

(4) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

a. issued by a veterinarian.

b. issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation established by the Board.

c. issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations established by the Board.

d. issued when the prescriber and dispenser are the same entity.

e. issued that include elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.

f. issued by a practitioner for a drug that the Federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be prescribed with electronic prescribing.

g. issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-patient specific prescription.

h. issued by a practitioner prescribing a drug under a research protocol.

i. issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to

regulations established by the Board, due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

j. issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, such practitioner 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.

(5) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription properly falls under one of the exceptions under subsection (4) of this section, from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are otherwise legal.

Section 5. Amend Chapter 21, Title 24 of the Delaware Code by making deletions as shown by strike through, insertions as shown by underline and redesignating as follows:

§ 2122. Prescription requirements.

(a) No written prescription shall be prescribed if it does not contain the following information clearly written, clearly hand printed, electronically printed, or typed:

(1) The name, address and phone number of the prescriber;

(2) The name and strength of the drug prescribed;

(3) The quantity of the drug prescribed;

(4) The directions for use of the drug;

(5) Date of issue.

(b) For purposes of this Chapter, “electronic prescription” means a prescription that is generated on an electronic application and transmitted as an electronic data file. Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

(1) issued by a veterinarian.

(2) issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation established by the Board.

(3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations established by the Board.

(4) issued when the prescriber and dispenser are the same entity.

(5) issued that include 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 practitioner for a drug that the Federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be prescribed with electronic prescribing.

(7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-patient specific prescription.

(8) issued by a practitioner prescribing a drug under a research protocol.

(9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations established by the Board, due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

(10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, such practitioner 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.

(c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are otherwise legal.

~~(b)~~(e) Optometrists who apply for a provider identifier number for controlled substances shall do so as outlined by the Division of Professional Regulation.

~~(c)~~(f) A completed application must provide proof of graduate level coursework that includes general and ocular pharmacology.

~~(d)~~(g) Controlled substances registration must include both of the following:

(1) Optometrists must register with the Drug Enforcement Agency [DEA] and use such DEA number for controlled substance prescriptions.

(2) Optometrists must register biennially with the Office of Controlled Substances in accordance with § 4732 of Title 16.

Section 6. This Act shall go into effect on January 1, 2021.

Ssynopsis

This Bill requires Podiatrists, Dentists, Doctors, Nurses and Optometrists who issue prescriptions to utilize electronic prescriptions except under certain exceptions.