

HOUSE BILL REPORT

SSB 5826

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to tamper-resistant prescription pads.

Brief Description: Requiring tamper-resistant prescription pads.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser and Parlette).

Brief History:

Committee Activity:

Health Care & Wellness: 3/12/09, 3/17/09 [DP].

Brief Summary of Substitute Bill

- Requires that every prescription written by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the Board of Pharmacy (Board).
- Directs the Board to create a seal of approval that confirms that a prescription pad or paper contains specified tamper-resistant characteristics.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 12 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller and Pedersen.

Staff: Kyle Gotchy (786-7119) and Dave Knutson (786-7146)

Background:

Medicaid Tamper-Resistant Prescription Law.

Starting on October 1, 2008, in order for Medicaid outpatient drugs to be reimbursable by the federal government, all written, non-electronic prescriptions were required to contain at least three tamper-resistant features, one from each of the following three industry-recognized

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baseline characteristics outlined in guidance issued by the Centers for Medicare and Medicaid Services (CMS):

- one or more features designed to prevent unauthorized copying of a completed or blank prescription form;
- one or more features designed to prevent the erasure or modification of information written on the prescription by the prescriber; and
- one or more features designed to prevent the use of counterfeit prescription forms.

Although the CMS has provided the above baseline characteristics of tamper-resistant prescriptions, each state has the authority to define which features it will require to meet those characteristics in order to be considered tamper-resistant. The baseline characteristics must:

- prevent unauthorized copying of a completed or blank prescription form;
- prevent the erasure or modification of information written on the prescription by the prescriber; and
- prevent the use of counterfeit prescription forms.

Electronic-Prescription Exceptions.

An e-prescription is a computer-generated prescription created by a patient's health care provider and sent directly to a pharmacy. The CMS encourages the use of e-prescriptions as an effective and efficient method of communicating prescriptions to pharmacists.

Consequently, the described Medicaid requirements do not apply to e-prescriptions transmitted to a pharmacy, prescriptions faxed to a pharmacy, or prescriptions communicated to the pharmacy by telephone by a prescriber.

Summary of Bill:

Prescription Pad Requirements.

Effective July 1, 2010, every prescription written by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the Board of Pharmacy (Board). Pharmacists may not fill a written prescription from a licensed practitioner unless it is written on an approved tamper-resistant prescription pad or paper. A pharmacist may nonetheless provide emergency supplies in accordance with the Board and other insurance contract requirements.

A tamper-resistant pad or paper must be approved by the Board for use and must contain the following industry-recognized characteristics:

- one or more features designed to prevent unauthorized copying of a completed or blank prescription form;
- one or more features designed to prevent the erasure or modification of information written on the prescription by the prescriber; and
- one or more features designed to prevent the use of counterfeit prescription forms.

Exemptions.

The requirements for tamper-resistant pads or paper do not apply to:

- prescriptions that are transmitted to the pharmacy by telephone, facsimile, or electronic means; or
- where the authorized health care practitioner follows defined procedures on prescriptions written for specified individuals, including:
 - inpatients and outpatients of a hospital;
 - residents of a nursing home;
 - inpatients or residents of a mental health facility; and
 - incarcerated individuals.

If a hard copy of an e-prescription is given directly to the patient, however, the manually signed hard copy prescription must be on approved tamper-resistant paper.

Seal of Approval.

The Board must create a seal of approval that confirms that a pad or paper contains all three required industry-recognized characteristics. The seal must be affixed to all prescription pads or paper and all vendors must have their tamper-resistant prescription pads or paper approved by the Board prior to the marketing or sale of pads or paper.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill would help avert fraud and abuse and may save the state some money.

(Opposed) None.

Persons Testifying: Dedi Hitchens, Washington State Pharmacy Association.

Persons Signed In To Testify But Not Testifying: None.