
SUBSTITUTE SENATE BILL 5416

State of Washington

63rd Legislature

2013 Regular Session

By Senate Health Care (originally sponsored by Senators Bailey, Schlicher, Becker, and Keiser; by request of Department of Health)

READ FIRST TIME 02/19/13.

1 AN ACT Relating to prescription information; amending RCW
2 69.41.010, 69.50.308, and 69.50.312; and reenacting and amending RCW
3 69.50.101.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 69.41.010 and 2012 c 10 s 44 are each amended to read
6 as follows:

7 As used in this chapter, the following terms have the meanings
8 indicated unless the context clearly requires otherwise:

9 (1) "Administer" means the direct application of a legend drug
10 whether by injection, inhalation, ingestion, or any other means, to the
11 body of a patient or research subject by:

12 (a) A practitioner; or

13 (b) The patient or research subject at the direction of the
14 practitioner.

15 (2) "Community-based care settings" include: Community residential
16 programs for (~~the developmentally disabled~~) persons with
17 developmental disabilities, certified by the department of social and
18 health services under chapter 71A.12 RCW; adult family homes licensed

1 under chapter 70.128 RCW; and assisted living facilities licensed under
2 chapter 18.20 RCW. Community-based care settings do not include acute
3 care or skilled nursing facilities.

4 (3) "Deliver" or "delivery" means the actual, constructive, or
5 attempted transfer from one person to another of a legend drug, whether
6 or not there is an agency relationship.

7 (4) "Department" means the department of health.

8 (5) "Dispense" means the interpretation of a prescription or order
9 for a legend drug and, pursuant to that prescription or order, the
10 proper selection, measuring, compounding, labeling, or packaging
11 necessary to prepare that prescription or order for delivery.

12 (6) "Dispenser" means a practitioner who dispenses.

13 (7) "Distribute" means to deliver other than by administering or
14 dispensing a legend drug.

15 (8) "Distributor" means a person who distributes.

16 (9) "Drug" means:

17 (a) Substances recognized as drugs in the official United States
18 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
19 or official national formulary, or any supplement to any of them;

20 (b) Substances intended for use in the diagnosis, cure, mitigation,
21 treatment, or prevention of disease in human beings or animals;

22 (c) Substances (other than food, minerals or vitamins) intended to
23 affect the structure or any function of the body of human beings or
24 animals; and

25 (d) Substances intended for use as a component of any article
26 specified in (a), (b), or (c) of this subsection. It does not include
27 devices or their components, parts, or accessories.

28 (10) "Electronic communication of prescription information" means
29 the ~~((communication of prescription information by computer, or the))~~
30 transmission of ~~((an exact visual image of))~~ a prescription ~~((by~~
31 ~~facsimile,))~~ or ~~((other electronic means for original prescription~~
32 ~~information or prescription))~~ refill ~~((information))~~ authorization for
33 a ~~((legend))~~ drug ~~((between an authorized))~~ of a practitioner ~~((and a~~
34 ~~pharmacy or the transfer of prescription information for a legend drug~~
35 ~~from one pharmacy to another pharmacy))~~ using computer systems. The
36 term does not include a prescription or refill authorization
37 transmitted verbally by telephone nor a facsimile manually signed by
38 the practitioner.

1 (11) "In-home care settings" include an individual's place of
2 temporary and permanent residence, but does not include acute care or
3 skilled nursing facilities, and does not include community-based care
4 settings.

5 (12) "Legend drugs" means any drugs which are required by state law
6 or regulation of the state board of pharmacy to be dispensed on
7 prescription only or are restricted to use by practitioners only.

8 (13) "Legible prescription" means a prescription or medication
9 order issued by a practitioner that is capable of being read and
10 understood by the pharmacist filling the prescription or the nurse or
11 other practitioner implementing the medication order. A prescription
12 must be hand printed, typewritten, or electronically generated.

13 (14) "Medication assistance" means assistance rendered by a
14 nonpractitioner to an individual residing in a community-based care
15 setting or in-home care setting to facilitate the individual's self-
16 administration of a legend drug or controlled substance. It includes
17 reminding or coaching the individual, handing the medication container
18 to the individual, opening the individual's medication container, using
19 an enabler, or placing the medication in the individual's hand, and
20 such other means of medication assistance as defined by rule adopted by
21 the department. A nonpractitioner may help in the preparation of
22 legend drugs or controlled substances for self-administration where a
23 practitioner has determined and communicated orally or by written
24 direction that such medication preparation assistance is necessary and
25 appropriate. Medication assistance shall not include assistance with
26 intravenous medications or injectable medications, except prefilled
27 insulin syringes.

28 (15) "Person" means individual, corporation, government or
29 governmental subdivision or agency, business trust, estate, trust,
30 partnership or association, or any other legal entity.

31 (16) "Practitioner" means:

32 (a) A physician under chapter 18.71 RCW, an osteopathic physician
33 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
34 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
35 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
36 registered nurse, advanced registered nurse practitioner, or licensed
37 practical nurse under chapter 18.79 RCW, an optometrist under chapter
38 18.53 RCW who is certified by the optometry board under RCW 18.53.010,

1 an osteopathic physician assistant under chapter 18.57A RCW, a
2 physician assistant under chapter 18.71A RCW, a naturopath licensed
3 under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or,
4 when acting under the required supervision of a dentist licensed under
5 chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

6 (b) A pharmacy, hospital, or other institution licensed,
7 registered, or otherwise permitted to distribute, dispense, conduct
8 research with respect to, or to administer a legend drug in the course
9 of professional practice or research in this state; and

10 (c) A physician licensed to practice medicine and surgery or a
11 physician licensed to practice osteopathic medicine and surgery in any
12 state, or province of Canada, which shares a common border with the
13 state of Washington.

14 (17) "Secretary" means the secretary of health or the secretary's
15 designee.

16 **Sec. 2.** RCW 69.50.101 and 2013 c 3 s 2 (Initiative Measure No.
17 502) and 2012 c 8 s 1 are each reenacted and amended to read as
18 follows:

19 Unless the context clearly requires otherwise, definitions of terms
20 shall be as indicated where used in this chapter:

21 (a) "Administer" means to apply a controlled substance, whether by
22 injection, inhalation, ingestion, or any other means, directly to the
23 body of a patient or research subject by:

24 (1) a practitioner authorized to prescribe (or, by the
25 practitioner's authorized agent); or

26 (2) the patient or research subject at the direction and in the
27 presence of the practitioner.

28 (b) "Agent" means an authorized person who acts on behalf of or at
29 the direction of a manufacturer, distributor, or dispenser. It does
30 not include a common or contract carrier, public warehouseperson, or
31 employee of the carrier or warehouseperson.

32 (c) "Board" means the state board of pharmacy.

33 (d) "Controlled substance" means a drug, substance, or immediate
34 precursor included in Schedules I through V as set forth in federal or
35 state laws, or federal or board rules.

36 (e)(1) "Controlled substance analog" means a substance the chemical

1 structure of which is substantially similar to the chemical structure
2 of a controlled substance in Schedule I or II and:

3 (i) that has a stimulant, depressant, or hallucinogenic effect on
4 the central nervous system substantially similar to the stimulant,
5 depressant, or hallucinogenic effect on the central nervous system of
6 a controlled substance included in Schedule I or II; or

7 (ii) with respect to a particular individual, that the individual
8 represents or intends to have a stimulant, depressant, or
9 hallucinogenic effect on the central nervous system substantially
10 similar to the stimulant, depressant, or hallucinogenic effect on the
11 central nervous system of a controlled substance included in Schedule
12 I or II.

13 (2) The term does not include:

14 (i) a controlled substance;

15 (ii) a substance for which there is an approved new drug
16 application;

17 (iii) a substance with respect to which an exemption is in effect
18 for investigational use by a particular person under Section 505 of the
19 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent
20 conduct with respect to the substance is pursuant to the exemption; or

21 (iv) any substance to the extent not intended for human consumption
22 before an exemption takes effect with respect to the substance.

23 (f) "Deliver" or "delivery," means the actual or constructive
24 transfer from one person to another of a substance, whether or not
25 there is an agency relationship.

26 (g) "Department" means the department of health.

27 (h) "Dispense" means the interpretation of a prescription or order
28 for a controlled substance and, pursuant to that prescription or order,
29 the proper selection, measuring, compounding, labeling, or packaging
30 necessary to prepare that prescription or order for delivery.

31 (i) "Dispenser" means a practitioner who dispenses.

32 (j) "Distribute" means to deliver other than by administering or
33 dispensing a controlled substance.

34 (k) "Distributor" means a person who distributes.

35 (l) "Drug" means (1) a controlled substance recognized as a drug in
36 the official United States pharmacopoeia/national formulary or the
37 official homeopathic pharmacopoeia of the United States, or any
38 supplement to them; (2) controlled substances intended for use in the

1 diagnosis, cure, mitigation, treatment, or prevention of disease in
2 individuals or animals; (3) controlled substances (other than food)
3 intended to affect the structure or any function of the body of
4 individuals or animals; and (4) controlled substances intended for use
5 as a component of any article specified in (1), (2), or (3) of this
6 subsection. The term does not include devices or their components,
7 parts, or accessories.

8 (m) "Drug enforcement administration" means the drug enforcement
9 administration in the United States Department of Justice, or its
10 successor agency.

11 (n) "Immediate precursor" means a substance:

12 (1) that the state board of pharmacy has found to be and by rule
13 designates as being the principal compound commonly used, or produced
14 primarily for use, in the manufacture of a controlled substance;

15 (2) that is an immediate chemical intermediary used or likely to be
16 used in the manufacture of a controlled substance; and

17 (3) the control of which is necessary to prevent, curtail, or limit
18 the manufacture of the controlled substance.

19 (o) "Isomer" means an optical isomer, but in ~~((RCW 69.50.101))~~
20 subsection (x)(5) of this section, RCW 69.50.204(a) (12) and (34), and
21 69.50.206(b)(4), the term includes any geometrical isomer; in RCW
22 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any
23 positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and
24 69.50.208(a) the term includes any positional or geometric isomer.

25 (p) "Lot" means a definite quantity of marijuana, useable
26 marijuana, or marijuana-infused product identified by a lot number,
27 every portion or package of which is uniform within recognized
28 tolerances for the factors that appear in the labeling.

29 (q) "Lot number" shall identify the licensee by business or trade
30 name and Washington state unified business identifier number, and the
31 date of harvest or processing for each lot of marijuana, useable
32 marijuana, or marijuana-infused product.

33 (r) "Manufacture" means the production, preparation, propagation,
34 compounding, conversion, or processing of a controlled substance,
35 either directly or indirectly or by extraction from substances of
36 natural origin, or independently by means of chemical synthesis, or by
37 a combination of extraction and chemical synthesis, and includes any
38 packaging or repackaging of the substance or labeling or relabeling of

1 its container. The term does not include the preparation, compounding,
2 packaging, repackaging, labeling, or relabeling of a controlled
3 substance:

4 (1) by a practitioner as an incident to the practitioner's
5 administering or dispensing of a controlled substance in the course of
6 the practitioner's professional practice; or

7 (2) by a practitioner, or by the practitioner's authorized agent
8 under the practitioner's supervision, for the purpose of, or as an
9 incident to, research, teaching, or chemical analysis and not for sale.

10 (s) "Marijuana" or "marihuana" means all parts of the plant
11 Cannabis, whether growing or not, with a THC concentration greater than
12 0.3 percent on a dry weight basis; the seeds thereof; the resin
13 extracted from any part of the plant; and every compound, manufacture,
14 salt, derivative, mixture, or preparation of the plant, its seeds or
15 resin. The term does not include the mature stalks of the plant, fiber
16 produced from the stalks, oil or cake made from the seeds of the plant,
17 any other compound, manufacture, salt, derivative, mixture, or
18 preparation of the mature stalks (except the resin extracted
19 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
20 which is incapable of germination.

21 (t) "Marijuana processor" means a person licensed by the state
22 liquor control board to process marijuana into useable marijuana and
23 marijuana-infused products, package and label useable marijuana and
24 marijuana-infused products for sale in retail outlets, and sell useable
25 marijuana and marijuana-infused products at wholesale to marijuana
26 retailers.

27 (u) "Marijuana producer" means a person licensed by the state
28 liquor control board to produce and sell marijuana at wholesale to
29 marijuana processors and other marijuana producers.

30 (v) "Marijuana-infused products" means products that contain
31 marijuana or marijuana extracts and are intended for human use. The
32 term "marijuana-infused products" does not include useable marijuana.

33 (w) "Marijuana retailer" means a person licensed by the state
34 liquor control board to sell useable marijuana and marijuana-infused
35 products in a retail outlet.

36 (x) "Narcotic drug" means any of the following, whether produced
37 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a
2 combination of extraction and chemical synthesis:

3 (1) Opium, opium derivative, and any derivative of opium or opium
4 derivative, including their salts, isomers, and salts of isomers,
5 whenever the existence of the salts, isomers, and salts of isomers is
6 possible within the specific chemical designation. The term does not
7 include the isoquinoline alkaloids of opium.

8 (2) Synthetic opiate and any derivative of synthetic opiate,
9 including their isomers, esters, ethers, salts, and salts of isomers,
10 esters, and ethers, whenever the existence of the isomers, esters,
11 ethers, and salts is possible within the specific chemical designation.

12 (3) Poppy straw and concentrate of poppy straw.

13 (4) Coca leaves, except coca leaves and extracts of coca leaves
14 from which cocaine, ecgonine, and derivatives or ecgonine or their
15 salts have been removed.

16 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

17 (6) Cocaine base.

18 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
19 thereof.

20 (8) Any compound, mixture, or preparation containing any quantity
21 of any substance referred to in subparagraphs (1) through (7).

22 (y) "Opiate" means any substance having an addiction-forming or
23 addiction-sustaining liability similar to morphine or being capable of
24 conversion into a drug having addiction-forming or addiction-sustaining
25 liability. The term includes opium, substances derived from opium
26 (opium derivatives), and synthetic opiates. The term does not include,
27 unless specifically designated as controlled under RCW 69.50.201, the
28 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
29 (dextromethorphan). The term includes the racemic and levorotatory
30 forms of dextromethorphan.

31 (z) "Opium poppy" means the plant of the species *Papaver somniferum*
32 L., except its seeds.

33 (aa) "Person" means individual, corporation, business trust,
34 estate, trust, partnership, association, joint venture, government,
35 governmental subdivision or agency, or any other legal or commercial
36 entity.

37 (bb) "Poppy straw" means all parts, except the seeds, of the opium
38 poppy, after mowing.

1 (cc) "Practitioner" means:

2 (1) A physician under chapter 18.71 RCW; a physician assistant
3 under chapter 18.71A RCW; an osteopathic physician and surgeon under
4 chapter 18.57 RCW; an osteopathic physician assistant under chapter
5 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
6 limitations in RCW 18.57A.040; an optometrist licensed under chapter
7 18.53 RCW who is certified by the optometry board under RCW 18.53.010
8 subject to any limitations in RCW 18.53.010; a dentist under chapter
9 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
10 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
11 registered nurse practitioner, or licensed practical nurse under
12 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
13 who is licensed under RCW 18.36A.030 subject to any limitations in RCW
14 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific
15 investigator under this chapter, licensed, registered or otherwise
16 permitted insofar as is consistent with those licensing laws to
17 distribute, dispense, conduct research with respect to or administer a
18 controlled substance in the course of their professional practice or
19 research in this state.

20 (2) A pharmacy, hospital or other institution licensed, registered,
21 or otherwise permitted to distribute, dispense, conduct research with
22 respect to or to administer a controlled substance in the course of
23 professional practice or research in this state.

24 (3) A physician licensed to practice medicine and surgery, a
25 physician licensed to practice osteopathic medicine and surgery, a
26 dentist licensed to practice dentistry, a podiatric physician and
27 surgeon licensed to practice podiatric medicine and surgery, an
28 advanced registered nurse practitioner licensed to prescribe controlled
29 substances, or a veterinarian licensed to practice veterinary medicine
30 in any state of the United States.

31 (dd) "Prescription" means an order for controlled substances issued
32 by a practitioner duly authorized by law or rule in the state of
33 Washington to prescribe controlled substances within the scope of his
34 or her professional practice for a legitimate medical purpose.

35 (ee) "Production" includes the manufacturing, planting,
36 cultivating, growing, or harvesting of a controlled substance.

37 (ff) "Retail outlet" means a location licensed by the state liquor

1 control board for the retail sale of useable marijuana and marijuana-
2 infused products.

3 (gg) "Secretary" means the secretary of health or the secretary's
4 designee.

5 (hh) "State," unless the context otherwise requires, means a state
6 of the United States, the District of Columbia, the Commonwealth of
7 Puerto Rico, or a territory or insular possession subject to the
8 jurisdiction of the United States.

9 (ii) "THC concentration" means percent of delta-9
10 tetrahydrocannabinol content per dry weight of any part of the plant
11 *Cannabis*, or per volume or weight of marijuana product.

12 (jj) "Ultimate user" means an individual who lawfully possesses a
13 controlled substance for the individual's own use or for the use of a
14 member of the individual's household or for administering to an animal
15 owned by the individual or by a member of the individual's household.

16 (kk) "Useable marijuana" means dried marijuana flowers. The term
17 "useable marijuana" does not include marijuana-infused products.

18 (ll) "Electronic communication of prescription information" means
19 the ~~((communication of prescription information by computer, or the))~~
20 transmission of ~~((an exact visual image of))~~ a prescription ~~((by~~
21 ~~facsimile,))~~ or ~~((other electronic means for original prescription~~
22 ~~information or prescription))~~ refill ~~((information))~~ authorization for
23 a ~~((Schedule III-V controlled substance between an authorized~~
24 ~~practitioner and a pharmacy or the transfer of prescription information~~
25 ~~for a controlled substance from one pharmacy to another pharmacy))~~ drug
26 of a practitioner using computer systems. The term does not include a
27 prescription or refill authorization verbally transmitted by telephone
28 nor a facsimile manually signed by the practitioner.

29 **Sec. 3.** RCW 69.50.308 and 2012 c 10 s 46 are each amended to read
30 as follows:

31 (a) A controlled substance may be dispensed only as provided in
32 this section. Prescriptions electronically communicated must also meet
33 the requirements under RCW 69.50.312.

34 (b) Except when dispensed directly by a practitioner authorized to
35 prescribe or administer a controlled substance, other than a pharmacy,
36 to an ultimate user, a substance included in Schedule II may not be

1 dispensed without the written or electronically communicated
2 prescription of a practitioner.

3 (1) Schedule II narcotic substances may be dispensed by a pharmacy
4 pursuant to a facsimile prescription under the following circumstances:

5 (i) The facsimile prescription is transmitted by a practitioner to
6 the pharmacy; and

7 (ii) The facsimile prescription is for a patient in a long-term
8 care facility or a hospice program certified or paid by medicare under
9 Title XVIII of the federal social security act. "Long-term care
10 facility" means nursing homes licensed under chapter 18.51 RCW,
11 assisted living facilities licensed under chapter 18.20 RCW, and adult
12 family homes licensed under chapter 70.128 RCW; or

13 ~~(iii) ((The facsimile prescription is for a patient of a hospice
14 program certified or paid for by medicare under Title XVIII; or~~

15 ~~(iv)))~~ The facsimile prescription is for a patient of a hospice
16 program licensed by the state; and

17 ~~((+v))~~ (iv) The practitioner or the practitioner's agent notes on
18 the facsimile prescription that the patient is a long-term care or
19 hospice patient.

20 (2) Injectable Schedule II narcotic substances that are to be
21 compounded for patient use may be dispensed by a pharmacy pursuant to
22 a facsimile prescription if the facsimile prescription is transmitted
23 by a practitioner to the pharmacy.

24 (3) Under (1) and (2) of this subsection the facsimile prescription
25 shall serve as the original prescription and shall be maintained as
26 other Schedule II narcotic substances prescriptions.

27 (c) In emergency situations, as defined by rule of the state board
28 of pharmacy, a substance included in Schedule II may be dispensed upon
29 oral prescription of a practitioner, reduced promptly to writing and
30 filed by the pharmacy. Prescriptions shall be retained in conformity
31 with the requirements of RCW 69.50.306. ~~((A prescription for a
32 substance included in Schedule II may not be refilled.))~~

33 (d) A prescription for a substance included in Schedule II may not
34 be refilled. A prescription for a substance included in Schedule II
35 may not be filled more than six months after the date the prescription
36 was issued.

37 (e) Except when dispensed directly by a practitioner authorized to
38 prescribe or administer a controlled substance, other than a pharmacy,

1 to an ultimate user, a substance included in Schedule III ~~((e))~~, IV,
2 or V, which is a prescription drug as determined under RCW 69.04.560,
3 may not be dispensed without a written ~~((e))~~, oral, or electronically
4 communicated prescription of a practitioner. Any oral prescription
5 must be promptly reduced to writing. ~~((The prescription shall not be~~
6 ~~filled or refilled more than six months after the date thereof or be~~
7 ~~refilled more than five times, unless renewed by the practitioner.~~

8 ~~((e))~~ (f) The prescription for a substance included in Schedule
9 III, IV, or V may not be filled or refilled more than six months after
10 the date issued by the practitioner or be refilled more than five
11 times, unless renewed by the practitioner.

12 (g) A valid prescription or lawful order of a practitioner, in
13 order to be effective in legalizing the possession of controlled
14 substances, must be issued in good faith for a legitimate medical
15 purpose by one authorized to prescribe the use of such controlled
16 substance. An order purporting to be a prescription not in the course
17 of professional treatment is not a valid prescription or lawful order
18 of a practitioner within the meaning and intent of this chapter; and
19 the person who knows or should know that the person is filling such an
20 order, as well as the person issuing it, can be charged with a
21 violation of this chapter.

22 ~~((f))~~ (h) A substance included in Schedule V must be distributed
23 or dispensed only for a medical purpose.

24 ~~((g))~~ (i) A practitioner may dispense or deliver a controlled
25 substance to or for an individual or animal only for medical treatment
26 or authorized research in the ordinary course of that practitioner's
27 profession. Medical treatment includes dispensing or administering a
28 narcotic drug for pain, including intractable pain.

29 ~~((h))~~ (j) No administrative sanction, or civil or criminal
30 liability, authorized or created by this chapter may be imposed on a
31 pharmacist for action taken in reliance on a reasonable belief that an
32 order purporting to be a prescription was issued by a practitioner in
33 the usual course of professional treatment or in authorized research.

34 ~~((i))~~ (k) An individual practitioner may not dispense a substance
35 included in Schedule II, III, or IV for that individual practitioner's
36 personal use.

1 **Sec. 4.** RCW 69.50.312 and 1998 c 222 s 4 are each amended to read
2 as follows:

3 (1) Information concerning ~~((an original))~~ a prescription for a
4 controlled substance included in Schedules II through V, or information
5 concerning a ~~((prescription))~~ refill authorization for a controlled
6 substance included in Schedules III through V may be electronically
7 communicated to a pharmacy of the patient's choice pursuant to the
8 provisions of this chapter if the electronically communicated
9 prescription information complies with the following:

10 (a) Electronically communicated prescription information must
11 comply with all applicable statutes and rules regarding the form,
12 content, recordkeeping, and processing of a prescription for a legend
13 drug;

14 (b) The system used for transmitting electronically communicated
15 prescription information ~~((and the system used for receiving~~
16 ~~electronically communicated prescription information))~~ must be approved
17 by the board and in accordance with federal rules for electronically
18 communicated prescriptions for controlled substance included in
19 Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300,
20 1304, 1306, and 1311. This subsection does not apply to currently used
21 facsimile equipment transmitting an exact visual image of the
22 prescription. The board shall maintain and provide, upon request, a
23 list of systems used for electronically communicating prescription
24 information currently approved by the board;

25 (c) An explicit opportunity for practitioners must be made to
26 indicate their preference on whether a therapeutically equivalent
27 generic drug may be substituted;

28 (d) Prescription drug orders are confidential health information,
29 and may be released only to the patient or the patient's authorized
30 representative, the prescriber or other authorized practitioner then
31 caring for the patient, or other persons specifically authorized by law
32 to receive such information;

33 (e) To maintain confidentiality of prescription records, the
34 electronic system shall have adequate security and systems safeguards
35 designed to prevent and detect unauthorized access, modification, or
36 manipulation of these records. The pharmacist in charge shall
37 establish or verify the existence of policies and procedures which
38 ensure the integrity and confidentiality of prescription information

1 transmitted to the pharmacy by electronic means. All managers,
2 employees, and agents of the pharmacy are required to read, sign, and
3 comply with the established policies and procedures; and

4 (f) The pharmacist shall exercise professional judgment regarding
5 the accuracy, validity, and authenticity of the prescription drug order
6 received by way of electronic transmission, consistent with federal and
7 state laws and rules and guidelines of the board.

8 (2) The board may adopt rules implementing this section.

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