

SENATE BILL REPORT

SB 5446

As of February 18, 2019

Title: An act relating to electronic prescriptions.

Brief Description: Concerning electronic prescriptions.

Sponsors: Senators Mullet, Rivers, Cleveland, Becker, Keiser, Bailey and Kuderer.

Brief History:

Committee Activity: Health & Long Term Care: 2/18/19.

Brief Summary of Bill

- Requires all prescriptions issued in Washington State to be electronically communicated to the pharmacy of the patient's choice, unless certain exceptions apply.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: LeighBeth Merrick (786-7445)

Background: The Department of Health (DOH) licenses and regulates the various health professions in Washington State. Most of these health professions are governed by a board, commission, or advisory committee which are supported by DOH. The Pharmacy Quality Assurance Commission (PQAC) regulates the practice of pharmacy, which includes electronically communicated prescriptions. Federal and state laws allow prescribers to electronically send a prescription for legend drugs or controlled substances to a pharmacy. The electronic system must comply with state and federal requirements relating to the prescription's form, content, recordkeeping, transmission, and processing, and must be approved by PQAC.

All health professions are subject to the Uniform Disciplinary Act (UDA). Under the UDA, DOH or a professional board or commission investigates unprofessional conduct claims, and may take disciplinary action against a licensed health care provider. Disciplining actions include fines, license revocations, and restrictions on practice.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: Beginning January 1, 2020, prescription medications issued in Washington State must be electronically communicated to a pharmacy of a patient's choice. The prescriber must use the National Council for Prescription Drug Programs prescriber/pharmacist interface SCRIPT standard for electronic prescribing.

Electronic communication is not required for prescriptions:

- issued by veterinarians;
- issued when electronic communication is not available due to temporary technological or electrical failure;
- transmitted to a pharmacy located outside the state;
- written by a prescriber who is also the dispenser;
- that include elements not supported by the National Council for Prescription Drug Programs prescriber/pharmacist interface SCRIPT standard;
- required by the Federal Food and Drug Administration to contain certain elements that may not be accomplished with electronic prescribing, including prescriptions for a drug with risk evaluation and mitigation strategies including elements to assure safe use;
- which may be dispensed under a standing order or a collaborative drug therapy agreement issued in response to a public health emergency or other circumstances where the practitioner may issue a nonpatient specific prescription;
- issued under a drug research protocol;
- issued by a practitioner who has received a waiver from the Pharmacy Commission;
- issued by a practitioner who determines it is impractical for the patient to obtain the substances transmitted by electronic communication in a timely manner, and such delay would adversely impact the patient's medical condition.

The practitioner's disciplining authority is permitted to investigate violations of prescriptions not electronically communicated. If the practitioner's disciplining authority finds a practitioner violated the requirements, the practitioner is subject to a fine of \$250 per violation with a maximum of \$5,000 per calendar year. These fines are not considered to be disciplinary actions and unprofessional conduct or both. DOH must adopt rules to allow a practitioner to appeal fines when they are imposed.

Pharmacists receiving written, oral, or a faxed prescription are not required to verify the prescription meets the exceptions for electronic communication, and are allowed to dispense medications from otherwise valid written, oral, or faxed prescriptions consistent with state and federal law.

The Pharmacy Commission must adopt rules to implement these requirements. The rules must include a process allowing a practitioner to receive a waiver from the electronic communication requirements if the practitioner demonstrates an inability to electronically communicate prescription information due to economic hardship, technological limitations that are not reasonable within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

Appropriation: None.

Fiscal Note: Requested on February 7, 2019.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Paper prescriptions are inconvenient for patients and not efficient for providers. Electronic prescribing helps eliminate prescription fraud, improve communication between prescribers and pharmacies, helps patients get their medications faster, and reduces administrative burden, medication errors, and diversion. Medicare Part D will require electronic prescribing by 2021. Electronic prescribing can also help against opioid abuse and it would be better to include these requirements in SB 5380—Governor's opioid bill.

CON: There are barriers to electronic prescribing that exist today that need to be resolved before this is implemented. The PQAC's approval of electric prescribing systems needs to be eliminated. The costs to comply with this would negatively impact smaller provider clinics, and the rulemaking may not accommodate exceptions for all providers that need it. Certain providers use paper prescriptions so that patients can check the prices of multiple pharmacies.

OTHER: The 2020 implementation date should be delayed to give providers time to get their systems in place to comply. Compound prescriptions should not be required to be electronic.

Persons Testifying: PRO: Senator Mark Mullet, Prime Sponsor; Jim Hedrick, Walgreens; Mark Johnson, Washington Retail; Lis Houchen, National Association Chain Drug Stores; Larry Johnson, CVSHealth; Jennifer Kurrie, Walgreens.

CON: Jeb Shepard, Washington State Medical Association; Susie Tracy, Washington Academy of Eye Physicians and Surgeons; Devon Connor-Green, ARNPs United of Washington State.

OTHER: Lisa Thatcher, Washington State Hospital Association; Jeff Rochon, Washington State Pharmacy Association; Courtney Smith, Kaiser Permanente.

Persons Signed In To Testify But Not Testifying: PRO: Jennifer Kurrie, Walgreens.