**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑295 SO AS TO PROVIDE THAT A PERSON OR GROUP INVOLVED IN PROVIDING PRESCRIPTION BENEFITS TO A PATIENT MUST MAKE AVAILABLE ALL INFORMATION NECESSARY TO COMPLY WITH PROVISIONS OF INSURANCE LAW CONCERNING ELECTRONIC PRESCRIPTIONS; AND TO AMEND SECTION 44‑117‑320, RELATING TO ELECTRONIC PRESCRIPTIONS, SO AS TO PROVIDE ELECTRONIC PRESCRIPTION HARDWARE AND SOFTWARE REQUIREMENTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑295. An entity involved in the delivery of prescription benefits to a patient must make available to a practitioner all information necessary to comply with Section 44‑117‑320(A)(9), (11), and (12).”

SECTION 2. Section 44‑117‑320(A) of the 1976 Code, as added by Act 71 of 2007, is amended to read:

“(A) A practitioner may electronically transmit a prescription to a pharmacy if all of these conditions are met:

(1) A valid practitioner/patient relationship must exist.

(2) The prescription must identify the transmitter’s phone number, the time and date of transmission, and the pharmacy intended to receive the transmission and any other information required by federal or state law.

(3) The prescription must be transmitted by the authorized practitioner or the practitioner’s designated agent to the pharmacy of the patient’s choice, and the prescription must be received only by a pharmacy, with no intervening person or entity having access to view, read, manipulate, alter, store, or delete the electronic prescription prior to its receipt at the pharmacy.

(4) The prescription must be transmitted to the pharmacy of the patient’s choice. If the pharmacy of the patient’s choice is not equipped with the capability to accept an electronic prescription, the practitioner shall provide the patient with a written prescription, telephone an oral prescription, or transmit via facsimile to the pharmacy of the patient’s choice.

(5) The prescription must have the practitioner’s electronic or digital signature or key code.

(6) The prescription must be sent directly from the practitioner to the receiving pharmacy of the patient’s choice. If an electronic prescription is printed out, it must possess an original handwritten signature before being delivered to a patient. If a prescription is a hard copy prescription drug order generated from electronic media, a prescribing practitioner’s electronic or manual signature must be present. Prescriptions with electronic signatures must be applied to paper that utilizes security features that will ensure the prescription drug order is not subject to any form of copying or alteration.

(7) Electronic prescribing software and hardware must comply with health information and medical records standards as governed by the Health Insurance Portability and Accountability Act of 1996 (HIPPA), 42 U.S.C. 1320d and 45 C.F.R. 160‑164.

(8) A practitioner must comply with the request of a patient to not send electronically a patient’s prescription or information related the patient’s prescription.

(9) A covering entity, including an insurer or pharmacy benefits manager, must make a patient’s drug benefits and formulary information available to the patient’s authorized prescribing practitioner in real time, through electronic prescribing software and hardware, and to the extent that the information is retrievable and conveyable in such a manner.

(10) Electronic prescribing software and hardware must not permit the use of any means of advertising to hinder or attempt to hinder through economic incentives or otherwise, the prescribing decision of a prescribing practitioner at the point of care.

(11) Electronic prescribing software and hardware must support access to data necessary for clinical and patient decision‑making including, but not limited to, adverse events and up‑to‑date formulary information, co‑pay requirements, and prescription tier information.

(12) Electronic prescribing software and hardware must facilitate navigation of health plan administrative requirements, including a means to initiate exceptions or prior authorization for coverage of restricted drugs so that the practitioner can have real‑time access to information required to be provided by the practitioner for exceptions or prior authorization including, but not limited to, criteria for approval and how to appeal a denial of the exception or prior authorization request.

(13) A prior authorization form must be adjudicated through electronic transmission, including, but not limited to, a web‑based application.

(14) The provisions of this section do not prohibit other general exclusions, limitations or requirements of a health insurance plan, including, but not limited to, quantity limits and other utilization management tools, prior authorization, step edits, and e‑messaging about pharmacy benefits coverage.”

SECTION 2. This act takes effect upon approval by the Governor.

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