~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 20, 2020

**H. 4938**

Introduced by Rep. Ridgeway

S. Printed 2/20/20--H.

Read the first time January 15, 2020.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 4938) to amend Section 44‑53‑360, as amended, Code of Laws of South Carolina, 1976, relating in part to electronic prescriptions, so as to add certain, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Section 44‑53‑360(j)(5), as last amended by Act 65 of 2019, and (k)(1), as added by Act 243 of 2018, of the 1976 Code, is further amended to read:

“~~(5)(A)~~(k)(1) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any controlled substance included in Schedules II, III, IV, and V. This subsection does not apply to prescriptions for a controlled substance included in Schedules II through V issued by any of the following:

~~(i)~~(A) a practitioner, other than a pharmacist, who dispenses directly to the ultimate user;

~~(ii)~~(B) a practitioner who orders a controlled substance included in Schedules II through V to be administered in a hospital, nursing home, hospice ~~facility~~ care program, home infusion pharmacy, outpatient dialysis facility, or residential care facility;

~~(iii)~~(C) a practitioner who experiences temporary technological or electrical failure or other extenuating technical circumstances that prevent a prescription from being transmitted electronically; however, the practitioner must document the reason for this exception in the patient’s medical record;

~~(iv)~~(D) a practitioner who writes a prescription for a controlled substance included in Schedules II through V to be dispensed by a pharmacy located on federal property; however, the practitioner must document the reason for this exception in the patient’s medical record;

~~(v)~~(E) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40; ~~or~~

~~(vi)~~(F) a practitioner who writes a prescription for a controlled substance included in Schedules II through V for a patient who is being discharged from a hospital, emergency department, or urgent care or for a patient who is receiving services from a facility established pursuant to Section 44‑11‑10;

(G) a practitioner who writes a prescription for a controlled substance included in Schedules II through V that does not exceed a five-day supply for the patient; or

(H) a practitioner who issues an oral authorization in the case of an emergency situation.

~~(B)~~(2) A prescription for a controlled substance included in Schedules II, III, IV, and V that includes elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard is exempt from this subsection.

~~(C)~~(3) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in ~~subsection (A)~~ item (1) or ~~(B)~~(2) before dispensing a controlled substance included in Schedules II through V. A dispenser may continue to dispense a controlled substance included in Schedules II through V from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

~~(D)~~(4) A dispenser is immune from any civil or criminal liability or disciplinary action from the State Board of Pharmacy for dispensing a prescription written by a prescriber that is in violation of this subsection.

~~(k)~~(l)(1) A written prescription for any Schedule II, III, IV, and V controlled substance must be written on tamper‑resistant prescription pads which contain one or more industry‑recognized features designed to prevent all of the following:

(A) unauthorized copying of a completed or blank prescription form;

(B) erasure or modification of information written on the prescription by the prescriber; and

(C) use of counterfeit prescription forms.”

SECTION 2. This act takes effect January 1, 2021. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 15, 2020**

**State Expenditure**

Practitioners are required to electronically prescribe any controlled substance included in Schedules II through V, except under certain conditions. This bill creates additional exceptions to this requirement.

**Department of Health and Environmental Control.** Prescription monitoring falls under the administration of DHEC. The agency indicates that it will incorporate these changes using existing staff and resources. Therefore, this bill will have no expenditure impact on DHEC.

**Department of Labor, Licensing and Regulation.** Medical practitioners are licensed by the Board of Medical Examiners, which falls under the administration of LLR. The agency indicates that this bill does not materially alter the oversight or regulatory duties of the board. Therefore, this bill will have no expenditure impact on LLR.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 44‑53‑360, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING IN PART TO ELECTRONIC PRESCRIPTIONS, SO AS TO ADD CERTAIN EXCEPTIONS TO ELECTRONIC PRESCRIBING REQUIREMENTS AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. Section 44‑53‑360(j)(5), as last amended by Act 65 of 2019, and (k)(1), as added by Act 243 of 2018, of the 1976 Code, is further amended to read:

“~~(5)(A)~~(k)(1) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any controlled substance included in Schedules II, III, IV, and V. This subsection does not apply to prescriptions for a controlled substance included in Schedules II through V issued by any of the following:

~~(i)~~(A) a practitioner, other than a pharmacist, who dispenses directly to the ultimate user;

~~(ii)~~(B) a practitioner who orders a controlled substance included in Schedules II through V to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility;

~~(iii)~~(C) a practitioner who experiences temporary technological or electrical failure or other extenuating technical circumstances that prevent a prescription from being transmitted electronically; however, the practitioner must document the reason for this exception in the patient’s medical record;

~~(iv)~~(D) a practitioner who writes a prescription for a controlled substance included in Schedules II through V to be dispensed by a pharmacy located on federal property; however, the practitioner must document the reason for this exception in the patient’s medical record;

~~(v)~~(E) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40; ~~or~~

~~(vi)~~(F) a practitioner who writes a prescription for a controlled substance included in Schedules II through V for a patient who is being discharged from a hospital, emergency department, or urgent care or for a patient who is receiving services from a facility established pursuant to Section 44‑11‑10; or

(G) a practitioner who writes a prescription for a controlled substance included in Schedules II through V that does not exceed a five-day supply for the patient.

~~(B)~~(2) A prescription for a controlled substance included in Schedules II, III, IV, and V that includes elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard is exempt from this subsection.

~~(C)~~(3) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in ~~subsection (A)~~ item (1) or ~~(B)~~(2) before dispensing a controlled substance included in Schedules II through V. A dispenser may continue to dispense a controlled substance included in Schedules II through V from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

~~(D)~~(4) A dispenser is immune from any civil or criminal liability or disciplinary action from the State Board of Pharmacy for dispensing a prescription written by a prescriber that is in violation of this subsection.

~~(k)~~(l)(1) A written prescription for any Schedule II, III, IV, and V controlled substance must be written on tamper‑resistant prescription pads which contain one or more industry‑recognized features designed to prevent all of the following:

(A) unauthorized copying of a completed or blank prescription form;

(B) erasure or modification of information written on the prescription by the prescriber; and

(C) use of counterfeit prescription forms.”

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

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