

SENATE BILL No. 99

By Committee on Public Health and Welfare

2-3

1 AN ACT concerning electronic transmission of prescription orders;
2 establishing the electronic prescription adoption act.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. Section 1 through 4, and amendments thereto, shall be
6 known and may be cited as the electronic prescription adoption act.

7 Sec. 2. As used in the electronic prescription adoption act:

8 (a) "Practitioner" means a person licensed to practice medicine and
9 surgery, dentist, podiatrist, veterinarian, optometrist licensed under the
10 optometry law as a therapeutic licensee or diagnostic and therapeutic
11 licensee, or scientific investigator or other person authorized by law to
12 use a prescription-only drug in teaching or chemical analysis or to
13 conduct research with respect to a prescription-only drug.

14 (b) "Dispenser" means a practitioner or pharmacist who dispenses
15 prescription medication.

16 (c) "Electronic health record (EHR)" means the aggregate electronic
17 record of health-related information on an individual that is created and
18 gathered cumulatively across more than one health care organization and
19 is managed and consulted by licensed health care providers and staff
20 involved in the individual's health and care.

21 (d) "Electronic prescribing" or "electronic prescription (eRx)"
22 means the transfer of prescription information from the prescriber to the
23 pharmacy, and to the final payer, by electronic means, instead of by
24 paper, phone, or fax.

25 (e) "Electronic transmission" means transmission of information in
26 electronic form or the transmission of the exact visual image of a
27 document by way of electronic equipment.

28 (f) "Electronic transmission device" means any mechanism used to
29 facilitate the electronic transmission of a prescription by any individual
30 authorized to prescribe in this state.

31 (g) "Patient" means the individual for whom the prescriber issues a
32 prescription.

33 (h) "Prescriber" means a physician, dentist or other person licensed,
34 registered or otherwise permitted by the federal or state laws to issue
35 prescriptions for drugs for human use.

36 (i) "Prescription order" means: (1) An order to be filled by a

1 pharmacist for prescription medication issued and signed by a practitioner
2 or a mid-level practitioner in the authorized course of professional
3 practice; or (2) an order transmitted to a pharmacist through word of
4 mouth, note, telephone or other means of communication directed by
5 such practitioner or mid-level practitioner.

6 Sec. 3. (a) All prescription drug orders communicated by way of
7 electronic transmission shall:

8 (1) Be transmitted directly to a pharmacist or pharmacy technician in
9 a licensed pharmacy of the patient's choice with no intervening person
10 having access to the prescription order;

11 (2) identify the transmitter's phone number or any other suitable
12 means to contact the transmitter for verbal or written confirmation, the
13 time and date of transmission, and the identity of the pharmacy intended
14 to receive the transmission, as well as any other information required by
15 federal or state law;

16 (3) be transmitted by an authorized practitioner or the designated
17 agent of the prescriber; and

18 (4) be deemed the original prescription order, provided it meets the
19 requirements of this subsection.

20 (b) All electronic transmission devices used to communicate a
21 prescription to a pharmacist or pharmacy technician shall:

22 (1) Allow any legal prescription order to be written and entered into
23 the device without interference or limitations, including a medication
24 limited pick list or multiple messaging, prior to submission to a
25 pharmacist or pharmacy technician;

26 (2) allow the prescription to be written through a neutral and open
27 platform that does not use any means, program, or device, including, but
28 not limited to, advertising, instant messaging, and pop up messaging, to
29 influence or attempt to influence, through economic incentives or
30 otherwise, the prescribing decision of a health care professional at the
31 point of care. This paragraph shall apply if such means, program, or
32 device is triggered by, initiated by, or is in specific response to, the input,
33 selection, or act of a prescribing health care professional prescribing a
34 covered outpatient drug or selecting a pharmacy for a patient; and

35 (3) allow for a written reminder to be provided to the patient at the
36 time of the office visit pertaining to what prescription has been ordered
37 electronically and to which pharmacy the prescription was sent.

38 (c) In the event that the pharmacy a patient wishes to use is unable to
39 receive the intended prescription, a system for printing a copy of the
40 prescription for the patient to bring to the pharmacy shall be provided.

41 (d) Notwithstanding the paragraph (b)(2), individuals or entities may
42 show information regarding a plan's formulary if:

43 (1) All covered outpatient drugs and pharmacies, in and out of

1 network, available are readily disclosed to the health care professional;
2 and

3 (2) nothing is designed to preclude or make more difficult the health
4 care professional's or patient's selection of any particular pharmacy or
5 covered outpatient drug.

6 (e) All electronic transmission devices used to communicate to a
7 pharmacist or pharmacy technician shall be limited to messages to the
8 prescriber and staff that are consistent with the label, substantially
9 supported by scientific evidence, accurate, up to date, and fact-based,
10 including a fair and balanced presentation of risks and benefits, and
11 support for better clinical decision-making, such as, alerts to adverse
12 events and access to formulary information. This information must be
13 consistent with the United States food and drug administration
14 regulations for advertising pharmaceutical products and not be selectively
15 or competitively pushed to the prescriber.

16 Sec. 4. (a) The practitioner or practitioner's agent may communicate
17 a prescription order orally or by way of electronic transmission to a
18 pharmacist or certified pharmacy technician in a pharmacy, provided that
19 the identity of the transmitting agent is included in the order.

20 (b) The pharmacist shall exercise professional judgment regarding
21 the accuracy, validity, and authenticity of the prescription order
22 communicated by way of electronic transmission consistent with existing
23 federal or state laws and rules and regulations.

24 (c) All electronic equipment for receipt of prescription orders
25 communicated by way of electronic transmission shall be maintained so
26 as to ensure against unauthorized access.

27 (d) Persons other than those bound by a confidentiality agreement
28 pertaining to a patient's medical record shall not have access to pharmacy
29 records containing protected health information concerning the
30 pharmacy's patients.

31 Sec. 5. This act shall take effect and be in force from and after its
32 publication in the statute book.

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