HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2931 By: Mulready of the House

and

Griffin of the Senate

COMMITTEE SUBSTITUTE

An Act relating to controlled dangerous substances; amending 63 O.S. 2011, Section 2-309, as last amended by Section 1, Chapter 323, O.S.L. 2013 (63 O.S. Supp. 2017, Section 2-309), which relates to the Uniform Controlled Dangerous Substances Act; requiring electronic prescribing for all scheduled drugs; providing exceptions; modifying time period for certain exception; deleting prohibition concerning hydrocodone refills and restrictions on dispensing or distributing Schedule V substances; deleting restrictions related to the dispensing of paregoric; modifying certain definition; directing counties with certain populations to comply with electronic prescription requirements by certain date; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-309, as last amended by Section 1, Chapter 323, O.S.L. 2013 (63 O.S. Supp. 2017, Section 2-309), is amended to read as follows:

Section 2-309. A. 1. Except for dosages medically required for a period not to exceed forty-eight (48) hours which are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined under regulation promulgated by the Board of Pharmacy, ~~may~~ shall be dispensed without ~~the written~~ an electronic prescription of a practitioner; provided, that in emergency situations, as prescribed by the Board of Pharmacy by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist in a manner to be prescribed by rules and regulations of the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

2. Electronic prescribing ~~may~~ shall be utilized for Schedules II, III, IV, and V, subject to the requirements set forth in 21 CFR, Section 1311 et seq.

3. ~~The transmission of written prescription by practitioner to dispensing pharmacy by facsimile or electronic transmission with electronic signature is permitted only under the following conditions:~~

~~a. for Schedule II drugs, the original prescription must be presented and verified against the facsimile at the time the substances are actually dispensed, and the~~

~~original document must be properly annotated and retained for filing, except:~~

~~(1)~~ ~~home infusion pharmacy may consider the facsimile to be a "written prescription" as required by Section 2-101 et seq. of this title and as required by Title 21 U.S.C., Section 829(a). The facsimile copy of the prescription shall be retained as an original prescription, and it must contain all the information required by Section 2-101 et seq. of this title and 21 CFR, Section 1306.05(a), including date issued, the patient's full name and address, and the practitioner's name, address, DEA registration number, and signature. The exception to the regulations for home infusion/IV therapy is intended to facilitate the means by which home infusion pharmacies obtain prescriptions for patients requiring the frequently modified parenteral controlled release administration of narcotic substances, but does not extend to the dispensing of oral dosage units of controlled substances,~~

~~(2)~~ ~~the same exception is granted to patients in Long Term Care facilities (LTCF), which are filled by~~

~~and delivered to the facility by a dispensing pharmacy, and~~

~~(3)~~ ~~an~~ An electronic prescription with electronic signature may serve as an original prescription, subject to the requirements set forth in 21 CFR, Section 1311 et seq.~~, and~~

~~b. for drugs in Schedules III and IV, a facsimile copy of a written, signed prescription transmitted directly by the prescribing practitioner to the pharmacy can serve as an original prescription. Electronic prescribing may be utilized for Schedules III and IV subject to the same requirements as set forth in 21 CFR, Section 1311 et seq.~~

4. Prescriptions shall be retained in conformity with the requirements of this section and Section 2-307 of this title. No prescription for a Schedule II substance may be refilled.

5. The electronic prescription requirement provided for in this section shall not apply to prescriptions for controlled dangerous substances issued by any of the following:

a. a person licensed to practice veterinary medicine,

b. a practitioner who experiences temporary technological or electrical failure or other extenuating circumstance that prevents the prescription from being transmitted electronically; provided, however, that

the practitioner documents the reason for this exception in the medical record of the patient,

c. a practitioner, other than a pharmacist, who dispenses directly to an ultimate user,

d. a practitioner who orders a controlled dangerous substance to be administered in a state-certified and recognized hospital, nursing home, hospice facility, outpatient dialysis facility, residential care facility or correctional facility,

e. a practitioner who writes a prescription to be dispensed by a pharmacy located on federal property, provided the practitioner documents the reason for this exception in the medical record of the patient, or

f. a prescriber that has received a waiver or extension from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

6. Electronic prescriptions shall not be utilized under the following circumstances:

a. prescriptions that have complicated directions,

b. prescriptions that have directions that exceed one hundred forty characters,

c. compound prescriptions containing two or more commercially available products or two or more active pharmaceutical ingredients,

d. compounded infusion prescriptions containing two or more commercially available products or two or more active pharmaceutical ingredients,

e. prescriptions issued under approved research protocols,

f. prescriptions that will be dispensed out-of-state, or

g. if the practitioner determines that an electronic prescription cannot be issued in a timely manner and the condition of the patient is at risk.

7. A pharmacist who receives a written, oral or facsimile prescription shall not be required to verify that the prescription falls under one of the exceptions provided for in paragraph 6 of this subsection. Pharmacists may continue to dispense medications from otherwise valid written, oral or facsimile prescriptions that are consistent with current laws and regulations.

8. Practitioners must indicate in the health record of a patient that an exception to the electronic prescription requirement was utilized.

B. 1. Except for dosages medically required for a period not to exceed ~~forty-eight (48)~~ seventy-two (72) hours which are administered by or on direction of a practitioner, other than a

pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in Schedule III or IV, which is a prescription drug as determined under regulation promulgated by the Board of Pharmacy, ~~may~~ shall be dispensed without ~~a written or oral~~ an electronic prescription.

2. ~~A written or oral~~ Any prescription for a controlled dangerous substance in Schedule III ~~or~~, IV or V may not be filled or refilled more than six (6) months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner.

~~3. A written or oral prescription for any product containing hydrocodone with another active ingredient shall not be refilled.~~

C. ~~No controlled dangerous substance included in Schedule V may be distributed or dispensed other than for a legitimate medical or scientific purpose.~~

~~D. Except for dosages medically required for a period not to exceed forty-eight (48) hours which are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, tincture opium camphorated, commonly known as paregoric, may not be dispensed without a written or oral prescription. The refilling of a prescription for paregoric shall~~

~~be unlawful unless permission is granted by the prescriber, either written or oral.~~

~~E.~~ Whenever it appears to the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control that a drug not considered to be a prescription drug under existing state law or regulation of the Board of Pharmacy should be so considered because of its abuse potential, the Director shall so advise the Board of Pharmacy and furnish to the Board all available data relevant thereto.

~~F.~~ D. "Prescription", as used herein, means a written ~~or~~, oral or electronic order by a practitioner to a pharmacist for a controlled dangerous substance for a particular patient, which specifies the date of its issue, and the full name and address of the patient~~;~~ and, if the controlled dangerous substance is prescribed for an animal, the species of the animal~~;~~, the name and quantity of the controlled dangerous substance prescribed~~;~~, the directions for use~~;~~, the name and address of the owner of the animal and, if written, the signature of the practitioner.

~~G.~~ E. No person shall solicit, dispense, receive or deliver any controlled dangerous substance through the mail, unless the ultimate user is personally known to the practitioner and circumstances clearly indicate such method of delivery is in the best interest of the health and welfare of the ultimate user.

F. Beginning November 1, 2018, the electronic prescription requirement provided for in this section shall apply to all counties having more than two hundred thousand (200,000) population according to the latest Federal Decennial Census. All remaining counties having less than two hundred thousand (200,000) population according to the latest Federal Decennial Census shall comply with the electronic prescription requirement provided for in this section on or before November 1, 2019.

SECTION 2. This act shall become effective November 1, 2018.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/01/2018 - DO PASS, As Amended and Coauthored.