~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 7, 2019

**S. 136**

Introduced by Senators Davis and Shealy

S. Printed 3/7/19--S.

Read the first time January 8, 2019.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 136) to amend Section 44-53-360(j) of the 1976 Code, relating to controlled substance prescriptions, to require the use of electronic prescriptions and to provide exceptions, 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(a), (b), and (d) of the 1976 Code is amended to read:

“Section 44-53-360. (a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, or in emergency situations as prescribed by the Department by regulation, no controlled substance included in Schedule II may be dispensed without the written or electronic prescription of a practitioner. Prescriptions shall be retained in conformity with the requirements of Section 44‑53‑340. No prescription for a controlled substance in Schedule II may be refilled.

(b) A pharmacist may dispense a controlled substance included in Schedule III, IV, or V pursuant to either a written or electronic prescription signed by a practitioner, or a facsimile of a written, signed prescription, transmitted by the practitioner or the practitioner’s agent to the pharmacy, or pursuant to an oral prescription, reduced promptly to writing and filed by the pharmacist. A prescription transmitted by facsimile must be received at the pharmacy as it was originally transmitted by facsimile and must include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law. Such prescription, when authorized, may not be refilled more than five times or later than six months after the date of the prescription unless renewed by the practitioner.

(d) Unless specifically indicated in writing on the face of the prescription or noted in the electronic prescription that it is to be refilled, and the number of times specifically indicated, no prescription may be refilled. The indication of ‘PRN’ or ‘ad lib’ or phrases, abbreviations, or symbols of like meaning shall not be construed as to exceed five refills or six months, whichever shall first occur. Preprinted refill instructions on the face of a prescription shall be disregarded by the dispenser unless an affirmative marking or other indication is made by the prescriber.”

SECTION 2. Section 44‑53‑360(j) of the 1976 Code is amended by adding an appropriately numbered new item to read:

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

(ii) 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) a practitioner who experiences temporary technological or electrical failure or other extenuating 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) 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) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40; or

(vi) 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.

(B) 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) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in item (a) or (b) 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) 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.”

SECTION 3. This act takes effect January 1, 2021. /

Renumber sections to conform.

Amend title to conform.

DANIEL B. VERDIN III for Committee.

**A** **BILL**

TO AMEND SECTION 44-53-360(j) OF THE 1976 CODE, RELATING TO CONTROLLED SUBSTANCE PRESCRIPTIONS, TO REQUIRE THE USE OF ELECTRONIC PRESCRIPTIONS AND TO PROVIDE EXCEPTIONS.

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

SECTION 1. Section 44‑53‑360(j) of the 1976 Code is amended by adding an appropriately numbered item to read:

“( )(a) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any targeted controlled substance. This subsection does not apply to prescriptions for a targeted controlled substance issued by any of the following:

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

(ii) a practitioner who orders a targeted controlled substance to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility;

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

(iv) a practitioner who writes a prescription for a targeted controlled substance 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; or

(v) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40.

(b) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in item (a) before dispensing a targeted controlled substance. A dispenser may continue to dispense a targeted controlled substance from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

(c) 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.”

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

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