

1 State of Arkansas As Engrossed: S2/5/19 S2/14/19 S2/25/19

2 92nd General Assembly

A Bill

3 Regular Session, 2019

SENATE BILL 174

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5 By: Senator K. Hammer

6 By: Representative Boyd

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For An Act To Be Entitled

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AN ACT TO REQUIRE MANDATORY ELECTRONIC PRESCRIBING

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FOR CONTROLLED SUBSTANCES; AND FOR OTHER PURPOSES.

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Subtitle

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TO REQUIRE MANDATORY ELECTRONIC

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PRESCRIBING FOR CONTROLLED SUBSTANCES.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. Arkansas Code § 5-64-308 is amended to read as follows:

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5-64-308. Prescriptions – Mandatory electronic prescribing.

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~~(a) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner or the oral, faxed, or electronic prescription of a practitioner, if issued in compliance with federal law and regulations.~~

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~~(b)(1) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or Schedule IV that is a prescription drug shall not be dispensed without a written or oral prescription of a practitioner or the faxed or electronic prescription of a practitioner, if issued in compliance with federal law and regulations.~~

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(2)(a) The A prescription for a controlled substance included in Schedule III or Schedule IV shall not be filled or refilled more than six (6) months after the date of the prescription or be refilled more than five (5) times unless renewed by the practitioner.

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1 ~~(e)~~(b) A controlled substance included in Schedule V shall not be
2 distributed or dispensed other than for a medical purpose.

3 (c) Except as provided in subsection (d) of this section, a
4 practitioner shall not issue a prescription for a controlled substance
5 included in Schedule II through Schedule VI unless the prescription is made
6 by electronic prescription from the practitioner issuing the prescription to
7 a pharmacy.

8 (d) A practitioner may issue a prescription for a controlled substance
9 included in Schedule II through Schedule VI by written, oral, or faxed method
10 if issued:

11 (1) By:

12 (A) A veterinarian; or

13 (B) A practitioner:

14 (i) To be dispensed by a pharmacy located outside of
15 the state;

16 (ii) For a controlled substances for which the
17 United States Food and Drug Administration requires the prescription to
18 contain certain elements that are not captured through electronic prescribing
19 methods;

20 (iii) For the dispensing of a nonpatient specific
21 prescription under a standing order, approved protocol for drug therapy,
22 collaborative drug management or comprehensive medication management, or in
23 response to a public health emergency or other circumstances in which the
24 practitioner may issue a nonpatient specific prescription;

25 (iv) For a controlled substance under a research
26 protocol;

27 (v)(a) Who has received a waiver or a renewal of a
28 waiver for a specified time period from the electronic prescription
29 requirement due to economic hardship, technological limitations that are not
30 reasonably within the control of the practitioner, or other exceptional
31 circumstances demonstrated by the practitioner.

32 (b) A practitioner who has received a waiver
33 from the United States Department of Health and Human Services shall have a
34 valid waiver in this state; or

35 (vi) Under circumstances in which the practitioner
36 reasonably determines that obtaining the controlled substances in a timely

1 manner is impractical through electronic prescription and the delay would
2 adversely impact the medical condition of the patient;

3 (2) In circumstances in which electronic prescribing is not
4 available due to temporary technological or electrical failure; or

5 (3) When the practitioner and the dispenser are the same entity.

6 (e)(1) A pharmacist or pharmacy that receives a written, oral, or
7 faxed prescription for a controlled substance included in Schedule I through
8 Schedule VI is not required to verify that the prescription properly falls
9 under one (1) of the exceptions listed in subsection (d) of this section.

10 (2) A pharmacist may continue to dispense a controlled substance
11 from an otherwise valid written, oral, or faxed prescription that is
12 consistent with state law or rules or federal law and regulations.

13 (f) In addition to other penalties available under this chapter, a
14 licensing board of a practitioner may impose a civil penalty of two hundred
15 fifty dollars (\$250) per violation of this section.

16 (g) This section does not apply to prescriptions written by a
17 prescriber employed by or working under a professional services contract for
18 the Department of Correction or the Department of Community Corrections.

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20 *SECTION 2. DO NOT CODIFY. Contingent effective date.*

21 *This act is effective on and after the later of:*

22 *(1) January 1, 2021; or*

23 *(2) The certification by the Attorney General that the United*
24 *States Department of Health and Human Services requires mandatory electronic*
25 *prescribing.*

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28 */s/K. Hammer*

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31 **APPROVED: 3/13/19**