

2018 Regular Session

SENATE BILL NO. 368

BY SENATOR BOUDREAUX

HEALTH CARE. Provides relative to mandatory use of electronic prescriptions. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 37:1701 and to repeal R.S. 37:1702 and 1703, relative to
3 electronic prescriptions; to provide for mandatory use of electronic prescriptions; to
4 provide for exceptions; to provide for penalties; to provide for rulemaking; and to
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 37:1701 is hereby amended and reenacted to read as follows:

8 §1701. Prescription; name of patient and prescription; **label; penalties**

9 A. Each physician, surgeon, optometrist, medical psychologist, **advanced**
10 **practice registered nurse, physician assistant,** and dentist upon ~~writing~~ **issuing** a
11 prescription shall ~~write~~ **include** the name of the patient and the trade name, or the
12 generic name, or the most commonly used name on the prescription issued.

13 **B. Notwithstanding any provision of law to the contrary, effective**
14 **January 1, 2019, no physician, surgeon, optometrist, medical psychologist,**
15 **advanced practice registered nurse, physician assistant, or dentist shall issue**
16 **any prescription in this state unless such prescription is generated by electronic**
17 **means from the prescriber issuing the prescription to a pharmacy. The**

1 **provisions of this Subsection shall not apply to prescriptions issued:**

2 **(1) By veterinarians.**

3 **(2) In circumstances where electronic prescribing is not available due to**
4 **temporary technological or electrical failure.**

5 **(3) By a prescriber to be dispensed by a pharmacy located outside the**
6 **state.**

7 **(4) When the prescriber and dispenser are the same entity.**

8 **(5) That include elements that are not supported by the most recently**
9 **implemented version of the National Council for Prescription Drug Programs**
10 **Prescriber and Pharmacist Interface SCRIPT Standard.**

11 **(6) By a prescriber for a drug that the United States Food and Drug**
12 **Administration requires the prescription to contain certain elements that are**
13 **not able to be accomplished with electronic prescribing.**

14 **(7) By a prescriber allowing for the dispensing of a nonpatient specific**
15 **prescription pursuant to a standing order, approved protocol for drug therapy,**
16 **collaborative drug management, or comprehensive medication management, in**
17 **response to a public health emergency or other circumstances where the**
18 **prescriber may issue a nonpatient specific prescription.**

19 **(8) By a prescriber prescribing a drug under a research protocol.**

20 **(9) By a prescriber who has received a waiver from the requirement to**
21 **use electronic prescribing due to economic hardship, technological limitations**
22 **that are not reasonably within the control of the practitioner, or other**
23 **exceptional circumstance demonstrated by the prescriber. Any waiver must be**
24 **issued by the prescriber's respective licensing board and shall in no event be**
25 **granted for more than one year.**

26 **(10) By a prescriber under circumstances where, notwithstanding the**
27 **prescriber's present ability to make an electronic prescription as required by**
28 **this Subsection, such prescriber reasonably determines that it would be**
29 **impractical for the patient to obtain substances prescribed by electronic**

1 prescription in a timely manner, and such delay would adversely impact the
2 patient's medical condition.

3 C. A pharmacist who receives a written, oral, or faxed prescription is not
4 required to verify that the prescription properly satisfies one of the exceptions
5 from the requirement to electronically prescribe as set forth in Subsection B of
6 this Section. Pharmacists may continue to dispense medications from otherwise
7 valid written, oral, or faxed prescriptions that are consistent with the laws and
8 regulations in effect on December 31, 2018.

9 ~~B. D.~~ No ~~druggist,~~ pharmacist, or dispensing physician shall fill any
10 prescription unless the name of the patient and the trade name, or the generic name,
11 or the most commonly used name of the prescription appears on the label, unless
12 otherwise specified by the physician, surgeon, optometrist, medical psychologist,
13 advanced practice registered nurse, physician assistant, or dentist.

14 E. All pharmacists, upon filling any prescription, shall first write or print
15 the name of the patient on the label which shall be securely attached to the
16 bottle, box, or package containing the medicine or drugs prescribed.

17 F. Any physician, surgeon, optometrist, medical psychologist, advanced
18 practice registered nurse, physician assistant, or dentist who violates the
19 provisions of this Section shall be fined two hundred fifty dollars for each
20 violation, not to exceed a total of five thousand dollars in one calendar year.

21 G. The Louisiana Board of Pharmacy shall promulgate rules and
22 regulations to implement and enforce Subsection B of this Section. Each health
23 profession licensing board that regulates prescribers shall promulgate rules and
24 regulations to implement and enforce Paragraph (B)(9) and Subsection F of this
25 Section.

26 Section 2. R.S. 37:1702 and 1703 are hereby repealed.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 368 Original

2018 Regular Session

Boudreaux

Present law provides specifications for physicians, surgeons, optometrists, medical psychologists, and dentists, upon writing a prescription. Proposed law adds advanced practice registered nurses and physician assistants among the providers who have current prescriptive authority and requires all prescriptions to be issued electronically on and after January 1, 2019. Proposed law authorizes the Louisiana Board of Pharmacy to promulgate rules governing electronic prescribing.

Proposed law provides ten exceptions to when a prescription must be electronic. Proposed law provides for a hardship waiver as one of the ten exceptions. The hardship waiver cannot be granted for more than one year. Proposed law authorizes the health profession licensing boards who regulate prescribers to promulgate rules governing the hardship waiver.

Proposed law provides that a pharmacist is not required to verify that a prescriber has properly satisfied one of the ten enumerated exceptions to mandatory electronic prescribing if he receives a written, oral, or faxed prescription.

Present law provides that all pharmacists, upon filling any prescription, shall first write or print the name of the patient on the label which shall be securely attached to the bottle, box, or package containing the medicine or drugs prescribed. Proposed law retains present law.

Present law provides for penalties in the amount of not less than \$5 nor more than \$25, or imprisonment for not less than ten days nor more than thirty days, or both. Proposed law repeals present law and imposes penalties in the amount of \$250 for each violation, not to exceed \$5,000 in one calendar year. Proposed law authorizes the health profession licensing boards who regulate prescribers to promulgate rules governing the imposition of penalties.

Effective August 1, 2018.

(Amends R.S. 37:1701; repeals R.S. 37:1702 and 1703)