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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1508 Session of 2017

INTRODUCED BY NESBIT, JUNE 12, 2017

REFERRED TO COMMITTEE ON HEALTH, JUNE 12, 2017

AN ACT

Amending the act of September 27, 1961 (P.L.1700, No.699), entitled "An act relating to the regulation of the practice of pharmacy, including the sales, use and distribution of drugs and devices at retail; and amending, revising, consolidating and repealing certain laws relating thereto," providing for professional prescription, administration and dispensing.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act, is amended by adding a section to read:

Section 9.5. Professional Prescription, Administration and Dispensing.--(a) Except when dispensed or administered directly to the patient by a practitioner or a practitioner's authorized agent, other than a pharmacist, to an ultimate user, no prescription shall be dispensed without an electronic prescription of a practitioner, except in emergency situations, as prescribed by the secretary by regulation.

(b) No prescription for a controlled substance in Schedule II of the Controlled Substance, Drug, Device and Cosmetic Act,

may be refilled.

(c) No prescription for a controlled substance in Schedule III, IV and V of the Controlled Substance, Drug, Device and Cosmetic Act may be filled or refilled more than six months after the date of the prescription or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(d) This section shall not apply to prescriptions which are issued:

(1) By a veterinarian.

(2) In a circumstance when electronic prescribing is not available due to temporary technological or electrical failure.

(3) By a practitioner to be dispensed by a pharmacy located outside this Commonwealth.

(4) By a practitioner treating a patient in an emergency department or other health care facility and under a circumstance when, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, the practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner and that the delay would adversely impact the patient's medical condition.

(5) By a practitioner without Internet access or an electronic health record system. For purposes of this subparagraph:

(i) The department shall:

(A) Within 90 days of the effective date of this subparagraph, create a standardized form for practitioners to submit to the department indicating that the practitioner will not be electronically prescribing controlled substances in

Schedule II, III, IV or V of the Controlled Substance, Drug, Device and Cosmetic Act due to the lack of Internet access or an electronic health record system.

(B) Provide notice of the form under clause (A) through the Pennsylvania Bulletin and post the form on the department's publicly accessible Internet website.

(ii) A practitioner shall be required to provide notice to the department whenever the exception in this subparagraph no longer applies to the practitioner.

(iii) A practitioner who provides services in an emergency department or other health care facility shall not be required to submit the form under subparagraph (i)(A).

(e) The department shall promulgate regulations within two years of the effective date of this section relating to the exceptions provided for in subsection (d).

(f) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Controlled Substance, Drug, Device and Cosmetic Act" means the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

"Cosmetic" means a substance, excluding soap, which is intended:

(1) to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or other animal body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; or

(2) for use as a component of a substance under paragraph (1).

"Department" means the Department of Health of the

Commonwealth.

"Practitioner" means any of the following:

(1) A physician, osteopath, dentist, veterinarian, pharmacist, podiatrist, nurse, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance, other drug or device in the course of professional practice or research in this Commonwealth.

(2) A pharmacy, hospital, clinic or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance, other drug or device in the course of professional practice or research in this Commonwealth.

"Secretary" means the Secretary of Health of the Commonwealth.

"Ultimate user" means an individual who lawfully possesses a controlled substance, other drug, device or cosmetic for the individual's own use or for the use of a member of the individual's household or for administering to an animal in the individual's care.

Section 2. This act shall take effect in 60 days.