

SENATE BILL 2038

By Gresham

AN ACT to amend Tennessee Code Annotated, Title 53  
and Title 63, relative to controlled substances.

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

SECTION 1. Tennessee Code Annotated, Section 53-11-308, is amended by deleting subsection (a) and substituting instead the following:

(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 a prescription that complies with § 63-1-159.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

**63-1-159.**

(a) As used in this section "electronic prescription" means a written prescription that is generated on an electronic application and is transmitted in accordance with 21 CFR Part 1300.

(b) Any written, printed, or electronic prescription order for a Schedule II controlled substance prepared by a health care prescriber who is authorized by law to prescribe a drug must be legibly printed or typed as a separate prescription order. The written, printed, or electronic prescription order must contain all information otherwise required by law. The health care prescriber must sign the written, printed, or electronic prescription order on the day it is issued. Nothing in this section shall be construed to prevent a health care prescriber from issuing a verbal prescription order.

(c)

(1) Any prescription issued by a health care prescriber for a Schedule II controlled substance on or after July 1, 2020, shall be issued as an electronic prescription.

(2) This subsection (c) does not apply to a prescription issued by any of the following:

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

(B) A practitioner who issues a written prescription for a Schedule II controlled substance to be administered in a hospital, nursing home, hospice facility, outpatient dialysis facility, or residential care facility;

(C) A practitioner who experiences temporary technological or electrical failure or other extenuating circumstances that prevents the prescription from being transmitted electronically; provided, however, that the practitioner documents the reason for this exception in the patient's medical record and issues the prescription as a written prescription;

(D) A practitioner who issues a prescription to be dispensed by a pharmacy located on federal property; provided, however, the practitioner documents the reason for this exception in the patient's medical record and issues the prescription as a written prescription; or

(E) A practitioner who has been granted a waiver from the electronic prescription requirement by the commissioner of health; provided, that the prescription is issued as a written prescription.

(d) The commissioner of health may issue a waiver to a health care prescriber who is unable to issue a prescription by electronic means. The waiver may permit the prescriber to issue a prescription in a written form.

SECTION 3. Tennessee Code Annotated, Section 63-3-128, is amended by deleting the section in its entirety.

SECTION 4. Tennessee Code Annotated, Section 63-5-122(g), is amended by deleting the subsection in its entirety.

SECTION 5. Tennessee Code Annotated, Section 63-6-239, is amended by deleting the section in its entirety.

SECTION 6. Tennessee Code Annotated, Section 63-7-123(b)(3)(F), is amended by deleting the subdivision in its entirety.

SECTION 7. Tennessee Code Annotated, Section 63-8-129, is amended by deleting the section in its entirety.

SECTION 8. Tennessee Code Annotated, Section 63-9-118, is amended by deleting the section in its entirety.

SECTION 9. Tennessee Code Annotated, Section 63-19-107(2)(G), is amended by deleting the subdivision in its entirety.

SECTION 10. The commissioner of health shall convene a work group of interested stakeholders, including the representatives of physicians, dentists, hospitals, insurers, and pharmacists in this state to review actions necessary for the implementation of this act. The work group shall make an interim progress report to the chair of the health committee of the house of representatives and the chair of the senate health and welfare committee by November 1, 2018, and shall make a final report to such chairs by November 1, 2019. In addition, the work group shall evaluate hardships on prescribers, evaluate the inability of prescribers to comply with the deadline for electronic prescribing, and make recommendations to the general assembly for any extension or exemption processes relative to compliance or disruptions due to natural or manmade disasters or technology gaps, failures, or interruptions of services.

SECTION 11. The commissioner of health is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 12. Sections 10 and 11 of this act shall take effect upon becoming a law, the public welfare requiring it. All other sections of this act shall take effect July 1, 2020, the public welfare requiring it.