

Legislative Analysis



PRESCRIPTIONS: PROVIDE FOR FAXES & ELECTRONIC SIGNATURES

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House Bill 6323 (Proposed Substitute)
Sponsor: Rep. Gary A. Newell
Committee: Health Policy

Complete to 9-18-06

A SUMMARY OF HOUSE BILL 6323 (PROPOSED SUBSTITUTE)

The bill would amend the Public Health Code to allow for electronically transmitted prescriptions and prescriptions transmitted by facsimile.

An "electronically transmitted prescription" would mean the communication of an original prescription or refill authorization by electronic means. It would include computer to computer transmissions, computer to facsimile machine, or electronic mail transmissions that contained the same information as when the prescriber or authorized agent transmitted the prescription. The term would not include a prescription or refill authorization transmitted by telephone or facsimile machine. Prior to dispensing a prescription that was electronically transmitted, a pharmacist would have to exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription. An electronically transmitted prescription meeting the bill's requirements would be considered the original prescription.

Except as otherwise provided in Article 7 of the code and the federal Food, Drug, and Cosmetic Act, a prescription could be transmitted electronically by a prescriber or the prescriber's authorized agent as long as the transmission was in compliance with the Health Insurance Portability and Accountability Act (HIPPA) or regulations promulgated under that act and the data were not altered or modified in the transmission process. In addition, the electronically transmitted prescription would have to include all of the following information:

- The prescriber's name, address, and telephone number.
- The patient's full name.
- An electronic signature or other identifier which specifically identified and authenticated the prescriber or the prescriber's authorized agent. "Electronic signature" would mean an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. "Sign" would mean to affix one's signature manually to a document or to use an electronic signature when transmitting a prescription electronically.
- The time and date of the transmission.
- The name of the pharmacy intended to receive the transmission.
- Any other information required by the Food, Drug, and Cosmetic Act or state law.

The equipment or system used in the transmission and communication of prescriptions would have to provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access.

An electronic transmission of a prescription would have to be communicated in a retrievable, recognizable form acceptable to the intended recipient. "Dispense as written" or "D.A.W." could not be the default setting. Further, the bill would include references to prescriptions transmitted by "facsimile", "electronic transmission", and "other means of communication" in several provisions.

FISCAL IMPACT:

The bill may provide cost efficiencies to medical prescription processing, which may provide state savings for pharmaceutical medical care costs for state employees and the Medicaid program.

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