



SPONSOR: Rep. Heffernan & Rep. Baumbach & Sen. McDowell
Reps. Bentz, Lynn, Mitchell, Ramone, Seigfried; Sens.
Ennis, Hocker, Paradee, Sokola, Townsend

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 115

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PRESCRIPTIONS.

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

1 Section 1. Amend Chapter 5, of Title 24, of the Delaware Code by making deletions as shown by strike through,
2 insertions as shown by underline and redesignating as follows:

3 § 502 Definitions.

4 () “Electronic prescription means a prescription that is generated on an electronic application and transmitted as
5 an electronic data file.

6 § 518A. Prescription requirements.

7 (a) No written prescription shall be prescribed if it does not contain the following information clearly written,
8 clearly hand printed, electronically printed, or typed:

9 (1) The name, address and phone number of the prescriber;

10 (2) The name and strength of the drug prescribed;

11 (3) The quantity of the drug prescribed;

12 (4) The directions for use of the drug;

13 (5) Date of issue.

14 (b) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under
15 this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing
16 the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

17 (1) issued by a veterinarian.

18 (2) issued in circumstances where electronic prescribing is not available due to temporary technological or
19 electrical failure, as set forth in regulation established by the Board.

20 (3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations
21 established by the Board.

22 (4) issued when the prescriber and dispenser are the same entity.

23 (5) issued that include elements that are not supported by the most recently implemented version of the
24 National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.

25 (6) issued by a practitioner for a drug that the Federal Food and Drug Administration requires the prescription
26 to contain certain elements that are not able to be accomplished with electronic prescribing.

27 (7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a
28 standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication
29 management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-
30 patient specific prescription.

31 (8) issued by a practitioner prescribing a drug under a research protocol.

32 (9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined
33 by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations
34 established by the Board, due to economic hardship, technological limitations that are not reasonably within the control
35 of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

36 (10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to
37 make an electronic prescription as required by this subsection, such practitioner reasonably determines that it would be
38 impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay
39 would adversely impact the patient's medical condition.

40 (c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription
41 properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically
42 prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are
43 otherwise legal.

44 Section 2. Amend Chapter 11, of Title 24 of the Delaware Code by making deletions as shown by strike through,
45 insertions as shown by underline and redesignating as follows:

46 § 1101 Definitions.

47 () “Electronic prescription means a prescription that is generated on an electronic application and transmitted as
48 an electronic data file.

49 § 1137. Prescription requirements.

50 (a) No written prescription shall be prescribed if it does not contain the following information clearly written,
51 clearly hand printed, electronically printed, or typed:

52 (1) The name, address and phone number of the prescriber;

- 53 (2) The name and strength of the drug prescribed;
54 (3) The quantity of the drug prescribed;
55 (4) The directions for use of the drug;
56 (5) Date of issue.

57 (b) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under
58 this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing
59 the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

60 (1) issued by a veterinarian.

61 (2) issued in circumstances where electronic prescribing is not available due to temporary technological or
62 electrical failure, as set forth in regulation established by the Board.

63 (3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations
64 established by the Board.

65 (4) issued when the prescriber and dispenser are the same entity.

66 (5) issued that include elements that are not supported by the most recently implemented version of the
67 National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.

68 (6) issued by a practitioner for a drug that the Federal Food and Drug Administration requires the prescription
69 to contain certain elements that are not able to be prescribed with electronic prescribing.

70 (7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a
71 standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication
72 management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-
73 patient specific prescription.

74 (8) issued by a practitioner prescribing a drug under a research protocol.

75 (9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined
76 by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations
77 established by the Board, due to economic hardship, technological limitations that are not reasonably within the control
78 of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

79 (10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to
80 make an electronic prescription as required by this subsection, such practitioner reasonably determines that it would be
81 impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay
82 would adversely impact the patient's medical condition.

83 (c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription
84 properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically
85 prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are
86 otherwise legal.

87 Section 3. Amend Chapter 17, of Title 24 of the Delaware Code by making deletions as shown by strike through,
88 insertions as shown by underline and redesignating as follows:

89 § 1702 Definitions.

90 () “Electronic prescription means a prescription that is generated on an electronic application and transmitted as
91 an electronic data file.

92 § 1764A. Prescription requirements.

93 (a) No written prescription shall be prescribed if it does not contain the following information clearly written,
94 clearly hand printed, electronically printed, or typed:

95 (1) The name, address and phone number of the prescriber;

96 (2) The name and strength of the drug prescribed;

97 (3) The quantity of the drug prescribed;

98 (4) The directions for use of the drug;

99 (5) Date of issue.

100 (b) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed under
101 this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the person issuing
102 the prescription to a pharmacy in accordance with regulations established by the Board, except for prescriptions:

103 (1) issued by a veterinarian.

104 (2) issued in circumstances where electronic prescribing is not available due to temporary technological or
105 electrical failure, as set forth in regulation established by the Board.

106 (3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations
107 established by the Board.

108 (4) issued when the prescriber and dispenser are the same entity.

109 (5) issued that include elements that are not supported by the most recently implemented version of the
110 National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.

111 (6) issued by a practitioner for a drug that the Federal Food and Drug Administration requires the prescription
112 to contain certain elements that are not able to be prescribed with electronic prescribing.

113 (7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a
114 standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication
115 management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-
116 patient specific prescription.

117 (8) issued by a practitioner prescribing a drug under a research protocol.

118 (9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined
119 by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations
120 established by the Board, due to economic hardship, technological limitations that are not reasonably within the control
121 of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

122 (10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to
123 make an electronic prescription as required by this subsection, such practitioner reasonably determines that it would be
124 impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay
125 would adversely impact the patient's medical condition.

126 (c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription
127 properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically
128 prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are
129 otherwise legal.

130 Section 4. Amend Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strike through,
131 insertions as shown by underline and redesignating as follows:

132 § 1902 Definitions.

133 () “Electronic prescription means a prescription that is generated on an electronic application and transmitted as
134 an electronic data file.

135 § 1927. Prescription requirements.

136 An APRN licensed by the Board may prescribe, order, procure, administer, store, dispense and furnish over the
137 counter, legend and controlled substances pursuant to applicable state and federal laws and within the APRN's role and
138 population focus.

139 (1) Written, verbal or electronic prescriptions and orders shall comply with all applicable state and federal
140 laws.

141 (2) All prescriptions shall be clearly written, clearly hand-printed, electronically printed, or typed and shall
142 include, but not be limited to, the following information:

- 143 a. The name, title, address, phone number, and registration number of the prescriber;
- 144 b. Name of patient;
- 145 c. Date of prescription;
- 146 d. Full name of the drug, dosage, route, amount to be dispensed and directions for its use;
- 147 e. Number of refills;
- 148 f. Signature of prescriber on written prescription;
- 149 g. DEA number of the prescriber on all scheduled drugs.

150 (3) APRNs may receive, sign for, record and distribute samples to patients. Distribution of drug samples shall
151 be in accordance with state law and federal Drug Enforcement Administration laws, regulations and guidelines.

152 (4) Notwithstanding any other provision of this section or any other law to the contrary, no person licensed
153 under this Chapter shall issue any prescription unless such prescription is made by electronic prescription from the
154 person issuing the prescription to a pharmacy in accordance with regulations established by the Board, except for
155 prescriptions:

- 156 a. issued by a veterinarian.
- 157 b. issued in circumstances where electronic prescribing is not available due to temporary technological or
158 electrical failure, as set forth in regulation established by the Board.
- 159 c. issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in
160 regulations established by the Board.
- 161 d. issued when the prescriber and dispenser are the same entity.
- 162 e. issued that include elements that are not supported by the most recently implemented version of the
163 National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.
- 164 f. issued by a practitioner for a drug that the Federal Food and Drug Administration requires the
165 prescription to contain certain elements that are not able to be prescribed with electronic prescribing.
- 166 g. issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a
167 standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication
168 management, in response to a public health emergency, or other circumstances where the practitioner may issue a
169 non-patient specific prescription.
- 170 h. issued by a practitioner prescribing a drug under a research protocol.
- 171 i. issued by practitioners who have received a waiver or a renewal thereof for a specified period
172 determined by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to

173 regulations established by the Board, due to economic hardship, technological limitations that are not reasonably
174 within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

175 j. issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to
176 make an electronic prescription as required by this subsection, such practitioner reasonably determines that it
177 would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner,
178 and such delay would adversely impact the patient's medical condition.

179 (5) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the
180 prescription properly falls under one of the exceptions under subsection (4) of this section, from the requirement to
181 electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax
182 prescriptions that are otherwise legal.

183 Section 5. Amend Chapter 21, Title 24 of the Delaware Code by making deletions as shown by strike through,
184 insertions as shown by underline and redesignating as follows:

185 § 2122. Prescription requirements.

186 (a) No written prescription shall be prescribed if it does not contain the following information clearly written,
187 clearly hand printed, electronically printed, or typed:

- 188 (1) The name, address and phone number of the prescriber;
- 189 (2) The name and strength of the drug prescribed;
- 190 (3) The quantity of the drug prescribed;
- 191 (4) The directions for use of the drug;
- 192 (5) Date of issue.

193 (b) For purposes of this Chapter, "electronic prescription" means a prescription that is generated on an electronic
194 application and transmitted as an electronic data file. Notwithstanding any other provision of this section or any other law
195 to the contrary, no person licensed under this Chapter shall issue any prescription unless such prescription is made by
196 electronic prescription from the person issuing the prescription to a pharmacy in accordance with regulations established by
197 the Board, except for prescriptions:

198 (1) issued by a veterinarian.

199 (2) issued in circumstances where electronic prescribing is not available due to temporary technological or
200 electrical failure, as set forth in regulation established by the Board.

201 (3) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulations
202 established by the Board.

203 (4) issued when the prescriber and dispenser are the same entity.

204 (5) issued that include elements that are not supported by the most recently implemented version of the
205 National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.

206 (6) issued by a practitioner for a drug that the Federal Food and Drug Administration requires the prescription
207 to contain certain elements that are not able to be prescribed with electronic prescribing.

208 (7) issued by a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a
209 standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication
210 management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-
211 patient specific prescription.

212 (8) issued by a practitioner prescribing a drug under a research protocol.

213 (9) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined
214 by the Board, not to exceed one year, from the requirement to use electronic prescribing, pursuant to regulations
215 established by the Board, due to economic hardship, technological limitations that are not reasonably within the control
216 of the practitioner, or other exceptional circumstance demonstrated by the practitioner.

217 (10) issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to
218 make an electronic prescription as required by this subsection, such practitioner reasonably determines that it would be
219 impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay
220 would adversely impact the patient's medical condition.

221 (c) A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription
222 properly falls under one of the exceptions under subsection (b) of this section, from the requirement to electronically
223 prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral or fax prescriptions that are
224 otherwise legal.

225 ~~(b)~~(e) Optometrists who apply for a provider identifier number for controlled substances shall do so as outlined
226 by the Division of Professional Regulation.

227 ~~(e)~~(f) A completed application must provide proof of graduate level coursework that includes general and ocular
228 pharmacology.

229 ~~(d)~~(g) Controlled substances registration must include both of the following:

230 (1) Optometrists must register with the Drug Enforcement Agency [DEA] and use such DEA number for
231 controlled substance prescriptions.

232 (2) Optometrists must register biennially with the Office of Controlled Substances in accordance with § 4732
233 of Title 16.

234 Section 6. This Act shall go into effect on January 1, 2021.

SYNOPSIS

This Bill requires Podiatrists, Dentists, Doctors, Nurses and Optometrists who issue prescriptions to utilize electronic prescriptions except under certain exceptions.