STATE OF NEW YORK

6838

2021-2022 Regular Sessions

IN SENATE

May 19, 2021

Introduced by Sen. KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to the issuance of prescription medications

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 281 of the public health law, as amended by chapter 13 of the laws of 2015, is amended to read as follows:

3. On or before December thirty-first, two thousand twelve, the commissioner shall promulgate regulations, in consultation with the commissioner of education, establishing standards for electronic prescriptions. Notwithstanding any other provision of this section or any other law to the contrary, effective three years subsequent to the date on which such regulations are promulgated, no person shall issue any prescription in this state unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with such regulatory standards, except for prescriptions: (a) [~~issued by veterinarians; (b)~~] issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation; [~~(c)~~] **(b)** issued by practitioners [~~who have received a waiver or a renewal thereof for a specified period determined by the commissioner, not to exceed one year, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the commissioner, in consultation with the commissioner of education, due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other~~] **in such** exceptional [~~circumstance demonstrated by the practitioner; (d)~~] **circumstances as may be determined by the commissioner; (c)** issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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make an electronic prescription as required by this subdivision, such practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition, provided that if such prescription is for a controlled substance, the quantity of controlled substances does not exceed a five day supply if the controlled substance were used in accordance with the directions for use; or [~~(e)~~] **(d)** issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulation.

§ 2. Subdivision 5 of section 281 of the public health law, as amended by chapter 350 of the laws of 2016, is amended to read as follows:

5. In the case of a prescription for a controlled substance issued by a practitioner under paragraph [~~(d)~~] **(c)** or [~~(e)~~] **(d)** of subdivision three of this section, the practitioner shall, upon issuing such prescription, indicate in the patient's health record either that the prescription was issued other than electronically because it (a) was impractical to issue an electronic prescription in a timely manner and such delay would have adversely impacted the patient's medical condition, or (b) was to be dispensed by a pharmacy located outside the state.

§ 3. Subdivision 10 of section 6810 of the education law, as amended by chapter 13 of the laws of 2015, is amended to read as follows:

10. Notwithstanding any other provision of this section or any other law to the contrary, effective three years subsequent to the date on which regulations establishing standards for electronic prescriptions are promulgated by the commissioner of health, in consultation with the commissioner pursuant to subdivision three of section two hundred eighty-one of the public health law, no practitioner shall issue any prescription in this state, unless such prescription is made by electronic prescription from the practitioner to a pharmacy, except for prescriptions: (a) [~~issued by veterinarians; (b)~~] issued or dispensed in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation; [~~(c)~~] **(b)** issued by practitioners [~~who have received a waiver or a renewal thereof for a specified period determined by the commissioner of health, not to exceed one year, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the commissioner of health, in consultation with the commissioner due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other~~] **in such** exceptional [~~circumstance demonstrated by the practitioner; (d)~~] **circumstances as may be determined by the commissioner of health; (c)** issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subdivision, such practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition, provided that if such prescription is for a controlled substance, the quantity that does not exceed a five day supply if the controlled substance was used in accordance with the directions for use; or [~~(e)~~] **(d)** issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulation.

§ 4. Subdivisions 11 and 12 of section 6810 of the education law, as amended by chapter 350 of the laws of 2016, are amended to read as follows:

11. In the case of a prescription issued by a practitioner under paragraph [~~(b)~~] **(a)** of subdivision ten of this section, the practitioner shall be required to indicate in the patient's health record that the prescription was issued other than electronically due to temporary technological or electrical failure.

12. In the case of a prescription issued by a practitioner under paragraph [~~(d)~~] **(c)** or [~~(e)~~] **(d)** of subdivision ten of this section, the practitioner shall, upon issuing such prescription, indicate in the patient's health record either that the prescription was issued other than electronically because it (a) was impractical to issue an electronic prescription in a timely manner and such delay would have adversely impacted the patient's medical condition, or (b) was to be dispensed by a pharmacy located outside the state.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.