



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 353

PRINTERS NO. 3779

PRIME SPONSOR: Nesbit

### COST / (SAVINGS)

FUND	FY 2018/19	FY 2019/20
General Fund	\$0	\$0

**SUMMARY:** House Bill 353, Printer's Number 3779, amends the Controlled Substance, Drug, Device and Cosmetic Act to require electronic prescriptions of a Schedule II, III and IV controlled substance. This legislation is effective in one year.

**ANALYSIS:** This legislation amends Section 4(3)(vii)1 of the act by providing that Chorionic Gonadotropin is not a Schedule III controlled substance if it is used for injection or implantation in cattle or other nonhuman species if that use is approved by the FDA.

HB 353 amends Section 11(a) and (b) of the Controlled Substance Act to require all Schedule II, III and IV controlled substances must be electronically prescribed except when dispensed directly to a patient by a practitioner. All electronic prescription applications must meet the requirements outlined in federal regulations.

This electronic prescription requirement does not apply in the following situations:

- The prescriber is a veterinarian;
- There is a temporary technological or electrical failure which prevents electronic prescribing;
- The controlled substance is dispensed by a pharmacy located outside PA;
- The prescriber or health care facility does not have access to the internet or an electronic health record system;
- The practitioner is treating a patient in an emergency department or a health care facility under circumstances when the practitioner reasonably determines that electronically prescribing would be impractical for the patient or would cause an untimely delay resulting in an adverse impact to the patient's medical care;
- For a patient in a hospice, nursing home or residential health care facility;
- For controlled substance compounded prescriptions and prescriptions containing elements that are not able to be accomplished with electronic prescribing;
- For a prescription issued pursuant to a valid collaborative practice agreement, a standing order or a drug research protocol;
- For a prescription issued in an emergency situation;

- The pharmacy receiving the prescription is not set up to process electronic prescriptions; and
- For controlled substances that are not required to be reported to the prescription monitoring program system.

A prescription for a Schedule II controlled substance shall not be refilled. A prescription for a Schedule III, IV or V controlled substance may not be refilled more than six months after its date or more than five times.

A pharmacist who receives a written, oral or faxed prescription is not required to verify that the prescription falls under one of the exceptions in the act. However, if the pharmacist has a reasonable belief that a patient may be seeking a monitored prescription drug other than for treatment of an existing medical condition, the pharmacist is specifically responsible for following applicable federal regulations.

The Department of Health must require that submissions by dispensers pursuant to the Achieving Better Care by Monitoring All Prescriptions Act contain the origin of a prescription (whether written, electronic, etc.).

A practitioner who violates the act is subject to an administrative penalty of \$100 for the first through tenth violations and \$250 for subsequent violations up to a maximum of \$5,000 per year. The assessment of an administrative penalty shall not be reported by the Department of Health to the practitioner's licensing board and shall not be considered a disciplinary action.

The Department of Health, within 180 days of the effective date of the act, shall promulgate regulations necessary to implement the requirements of the act.

**FISCAL IMPACT:** Enactment of this legislation will have no adverse fiscal impact on Commonwealth funds. The bill requires the Department of Health to promulgate regulations, which can be accomplished within existing staffing levels and funding provided to the department.

**PREPARED BY:** Ann Bertolino  
House Appropriations Committee (R)

**DATE:** October 17, 2018

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*