

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 353

PRINTER NO. 3779

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

February 6, 2017

PRIME SPONSOR

Representative Nesbit

DESCRIPTION

House Bill 353 amends the Controlled Substance, Drug, Device and Cosmetic Act (act) to require electronic prescriptions of Schedule II, III, IV and V controlled substances.

The bill 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.

The bill amends Section 11(a) and (b) of the act to provide that, except when dispensed directly to a patient by a practitioner, Schedule II, III, IV and V controlled substances must be electronically prescribed. All electronic prescription applications must meet the requirements outlined in federal regulations.

This electronic prescription requirement does not apply if the prescription is issued:

- By a veterinarian;
- When an electronic prescription is unavailable due to a temporary technological or electrical failure (in the event of such a failure, a practitioner shall, within 72 hours, seek to correct any cause for the failure that is reasonably within his or her control);
- By a practitioner and dispensed outside the Commonwealth;
- By a practitioner or health care facility without internet or an electronic health record system;
- By a practitioner in an emergency department or health care facility when an electronic prescription would be impractical or would cause undue delay;
- 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;

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- 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:

House Bill 353 will have no fiscal impact to the Commonwealth. The bill requires the Department of Health to promulgate regulations, which can be accomplished within existing staffing levels and funding provided to the department.