e-Prescribe Law

Effective January 1, 2021

SECTION 44-53-360. Prescriptions.

(a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, or in emergency situations as prescribed by the department by regulation, no controlled substance included in Schedule II may be dispensed without the written or electronic prescription of a practitioner. Prescriptions shall be retained in conformity with the requirements of Section 44-53-340. No prescription for a controlled substance in Schedule II may be refilled.

(b) A pharmacist may dispense a controlled substance included in Schedule III, IV, or V pursuant to either a written or electronic prescription signed by a practitioner, or a facsimile of a written, signed prescription, transmitted by the practitioner or the practitioner's agent to the pharmacy, or pursuant to an oral prescription, reduced promptly to writing and filed by the pharmacist. A prescription transmitted by facsimile must be received at the pharmacy as it was originally transmitted by facsimile and must include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law. Such prescription, when authorized, may not be refilled more than five times or later than six months after the date of the prescription unless renewed by the practitioner.

(c) No controlled substances included in any schedule may be distributed or dispensed for other than a medical purpose. No practitioner may dispense a Schedule II narcotic controlled substance for the purpose of maintaining the addiction of a narcotic dependent person outside of a facility or program approved by the Department of Health and Environmental Control. No practitioner may dispense a controlled substance outside of a bona fide practitioner-patient relationship.

(d) Unless specifically indicated in writing on the face of the prescription or noted in the electronic prescription that it is to be refilled, and the number of times specifically indicated, no prescription may be refilled. The indication of "PRN" or "ad lib" or phrases, abbreviations, or symbols of like meaning shall not be construed as to exceed five refills or six months, whichever shall first occur. Preprinted refill instructions on the face of a prescription shall be disregarded by the dispenser unless an affirmative marking or other indication is made by the prescriber.

(e) Prescriptions for controlled substances in Schedule II with the exception of transdermal patches, must not exceed a thirty-one day supply. Prescriptions for Schedule II substances must be dispensed within ninety days of the date of issue, after which time they are void. Prescriptions for controlled substances in Schedules III through V, inclusive, must not exceed a ninety-day supply.

(f) Preprinted prescriptions for controlled substances in any schedule are prohibited.

(g) The Board shall, by rules and regulations, specify the manner by which prescriptions are filed.

(h) A prescription, in order to be effective in legalizing the possession of a controlled substance and eliminating the need for registration of the recipient, must be issued for legitimate medical purposes. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding liability rests with the pharmacist who fills and ultimately dispenses the prescription. An order

purporting to be a prescription issued to a drug dependent person, not in the course of generally accepted medical treatment, but for the purpose of providing the user with controlled substances sufficient to maintain his dependence upon the substance, or to provide him with quantities of controlled substances in great excess of normal dosage ranges as recommended by the manufacturer of the substance, is not a prescription within the meaning and intent of this article; and the person filling or dispensing such an order, as well as the person issuing it, shall be deemed in violation of this section.

(i) Excepting a mail order prescription dispensed in compliance with Chapter 43 of Title 40 for which the dispenser requires proper identification of the recipient, a prescription for a controlled substance in Schedules II through V may not be filled unless the dispenser knows the recipient or requires the recipient to produce a government issued photo identification, and the dispenser notes the identification source and number on the prescription, or in a readily retrievable log including:

(1) prescription number;

(2) date prescription filled;

(3) number and type of identification;

(4) initials of person obtaining and recording information.

(j)(1) Initial opioid prescriptions for acute pain management or postoperative pain management must not exceed a seven-day supply, except when clinically indicated for cancer pain, chronic pain, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication-assisted treatment for substance use disorder. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new opioid prescription.

(2) This subsection does not apply to opioid prescriptions issued by a practitioner who orders an opioid prescription to be wholly administered in a hospital, nursing home, hospice facility, or residential care facility.

(3) A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection is immune from any civil liability or disciplinary action from the practitioner's professional licensing board.

(4) As used in this subsection:

(A) "Acute pain" means pain that a practitioner reasonably expects to last for three months or less, whether resulting from disease, accident, intentional trauma, or other cause. The term does not include "chronic pain" or pain being treated as part of cancer care, chronic care, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication-assisted treatment for substance use disorder.

(B) "Chronic pain" means pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.

e-Prescribe Law

Effective January 1, 2021

(C) "Postoperative pain" means acute pain experienced immediately after a surgical procedure.

(D) "Surgical procedure" means a procedure performed for the purpose of altering the human body by incision or destruction of tissues as part of the practice of medicine such as diagnostic or therapeutic treatment of conditions or disease processes by use of instruments and includes lasers, ultrasound, ionizing, radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means.

(k)(1) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any controlled substance included in Schedules II, III, IV, and V. This subsection does not apply to prescriptions for a controlled substance included in Schedules II through V issued by any of the following:

(A) a practitioner, other than a pharmacist, who dispenses directly to the ultimate user;

(B) a practitioner who orders a controlled substance included in Schedules II through V to be administered in a hospital, nursing home, hospice care program, home infusion pharmacy, outpatient dialysis facility, or residential care facility;

(C) a practitioner who experiences temporary technological or electrical failure or other extenuating technical circumstances that prevent a prescription from being transmitted electronically; however, the practitioner must document the reason for this exception in the patient's medical record;

(D) a practitioner who writes a prescription for a controlled substance included in Schedules II through V to be dispensed by a pharmacy located on federal property; however, the practitioner must document the reason for this exception in the patient's medical record;

(E) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40;

(F) a practitioner who writes a prescription for a controlled substance included in Schedules II through V for a patient who is being discharged from a hospital, emergency department, or urgent care or for a patient who is receiving services from a facility established pursuant to Section 44-11-10; or

(G) a practitioner who issues an oral authorization in the case of an emergency situation.

(2) A prescription for a controlled substance included in Schedules II, III, IV, and V that includes elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard is exempt from this subsection.

(3) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in item (1) or (2) before dispensing a controlled substance included in Schedules II through V. A dispenser may continue to dispense a controlled substance included in Schedules II through V from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

e-Prescribe Law

Effective January 1, 2021

(4) A dispenser is immune from any civil or criminal liability or disciplinary action from the State Board of Pharmacy for dispensing a prescription written by a prescriber that is in violation of this subsection.

(l)(1) A written prescription for any Schedule II, III, IV, and V controlled substance must be written on tamper-resistant prescription pads which contain one or more industry-recognized features designed to prevent all of the following:

(A) unauthorized copying of a completed or blank prescription form;

(B) erasure or modification of information written on the prescription by the prescriber; and

(C) use of counterfeit prescription forms.

(2) Prescription orders transmitted by facsimile, orally, or electronically are exempt from the tamper-resistant prescription pad requirements of this section.

(3) The tamper-resistant prescription pad requirements do not apply to refill prescriptions of an original written prescription that was presented to a pharmacy before the effective date of this act.

(4) The exceptions set forth in Section 1927(k)(3) of the Social Security Act, 42 U.S.C. Section 1396r-8(k)(3), concerning nursing facilities, hospitals, and other institutional and clinical settings, are exempt from the tamper-resistant prescription pad requirements of this section.

(5) If a written prescription is not submitted on a tamper-resistant prescription form meeting the requirements of this section, a pharmacy may fill the prescription in full as written on an emergency basis as long as the pharmacy receives a verbal, facsimile, electronic, or compliant written prescription from the prescriber within seventy-two hours after the date on which the prescription was filled.

HISTORY: 1962 Code Section 32-1510.48; 1971 (57) 800; 1974 (58) 2228; 1975 (59) 104; 1981 Act No. 79, Section 7; 2000 Act No. 355, Section 10; 2002 Act No. 365, Sections 2, 3, eff September 26, 2002; 2006 Act No. 396, Section 2, eff June 14, 2006; 2007 Act No. 71, Sections 1 to 3, eff June 13, 2007; 2018 Act No. 201 (S.918), Section 1, eff May 15, 2018; 2018 Act No. 243 (H.3826), Section 1, eff July 16, 2018; 2019 Act No. 65 (H.3728), Sections 5, 6, eff January 1, 2021; 2020 Act No. 160 (H.4938), Section 1, eff January 1, 2021.