

Committee Report

REGULAR CALENDAR

March 1, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Health, Human Services and Elderly Affairs to which was referred HB 143,

AN ACT relative to an electronic prescription drug program. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Gary Merchant

FOR THE MAJORITY OF THE COMMITTEE

MAJORITY COMMITTEE REPORT

Committee:	Health, Human Services and Elderly Affairs
Bill Number:	HB 143
Title:	relative to an electronic prescription drug program.
Date:	March 1, 2021
Consent Calendar:	REGULAR
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2021-0444h

STATEMENT OF INTENT

There are two parts to this bill: 1. electronic prescribing of controlled substances and, 2. clinical alerts. The nation and the state face an ongoing opioid and substance abuse crisis. Written paper prescriptions for controlled substances provide a substantial opportunity to divert opioids and other controlled medications from pharmacy-shopping a via fake, written prescription created from stolen provider prescription pads or via altering amounts. In 2018, Congress passed the SUPPORT Act prohibiting providers from using paper prescriptions and required secure prescription of controlled substances to minimize diversion to address the nation's crisis. Federal law applies to controlled medications paid for by a Medicare Part D drug plan. This bill requires a prescriber to electronically prescribe all prescriptions for controlled substances regardless of the payment source, including cash, the typical payment used to pay for fake prescriptions. Recently, the company Practice Infusion paid \$145 million to resolve a criminal and civil investigation by the US Department of Justice related to an illegal arrangement with a major opioid manufacturer. Practice Fusion received payments from the manufacturer to create and implement Clinical Decision Support alerts used by providers. One alert included a recommendation to use an opioid therapy treatment option that included the opioid made by the manufacturer. This bill adds language to the Commercial Protection Act prohibiting such deceptive practice.

Vote 19-2.

Rep. Gary Merchant
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Health, Human Services and Elderly Affairs

HB 143, relative to an electronic prescription drug program. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Gary Merchant for the **Majority** of Health, Human Services and Elderly Affairs. There are two parts to this bill: 1. electronic prescribing of controlled substances and, 2. clinical alerts. The nation and the state face an ongoing opioid and substance abuse crisis. Written paper prescriptions for controlled substances provide a substantial opportunity to divert opioids and other controlled medications from pharmacy-shopping a via fake, written prescription created from stolen provider prescription pads or via altering amounts. In 2018, Congress passed the SUPPORT Act prohibiting providers from using paper prescriptions and required secure prescription of controlled substances to minimize diversion to address the nation's crisis. Federal law applies to controlled medications paid for by a Medicare Part D drug plan. This bill requires a prescriber to electronically prescribe all prescriptions for controlled substances regardless of the payment source, including cash, the typical payment used to pay for fake prescriptions. Recently, the company Practice Infusion paid \$145 million to resolve a criminal and civil investigation by the US Department of Justice related to an illegal arrangement with a major opioid manufacturer. Practice Fusion received payments from the manufacturer to create and implement Clinical Decision Support alerts used by providers. One alert included a recommendation to use an opioid therapy treatment option that included the opioid made by the manufacturer. This bill adds language to the Commercial Protection Act prohibiting such deceptive practice. **Vote 19-2.**

Original: House Clerk

Cc: Committee Bill File

REGULAR CALENDAR

March 1, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Health, Human Services and Elderly Affairs to which was referred HB 143,

AN ACT relative to an electronic prescription drug program. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Jim Kofalt

FOR THE MINORITY OF THE COMMITTEE

**MINORITY
COMMITTEE REPORT**

Committee:	Health, Human Services and Elderly Affairs
Bill Number:	HB 143
Title:	relative to an electronic prescription drug program.
Date:	March 1, 2021
Consent Calendar:	REGULAR
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

Current law entitles patients to a paper prescription, making it possible to compare prices from more than one pharmacy. This bill would impose new mandates on medical providers and limit price transparency for patients, notably uninsured and under-insured people.

Rep. Jim Kofalt
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Health, Human Services and Elderly Affairs

HB 143, relative to an electronic prescription drug program. **INEXPEDIENT TO LEGISLATE.**

Rep. Jim Kofalt for the **Minority** of Health, Human Services and Elderly Affairs. Current law entitles patients to a paper prescription, making it possible to compare prices from more than one pharmacy. This bill would impose new mandates on medical providers and limit price transparency for patients, notably uninsured and under-insured people.

Original: House Clerk

Cc: Committee Bill File

Amendment to HB 143

1 Amend the bill by replacing section 2 with the following:

2

3 2 New Paragraph; Pharmacists and Pharmacies; Prescriptions. Amend RSA 318:47-c by
4 inserting after paragraph II the following new paragraph:

5 III.(a) Notwithstanding any provision of law to the contrary, no person shall issue a
6 prescription for a controlled drug unless the prescription is made by electronic prescription from the
7 person issuing the prescription to a pharmacy and the electronic prescription contains the
8 information and signature required in paragraph II, except for prescriptions issued:

9 (1) In circumstances where electronic prescribing is not available due to temporary
10 technological or electrical failure.

11 (2) By a practitioner to be dispensed by a pharmacy located outside of New
12 Hampshire, provided that such pharmacy complies with the laws and regulations of the state where
13 the pharmacy is located.

14 (3) When the prescriber is the dispenser.

15 (4) By a practitioner for a drug that the federal Food and Drug Administration
16 (FDA) requires the prescription to contain certain elements that are not able to be accomplished with
17 electronic prescribing.

18 (5) By practitioners who have received a waiver or a renewal thereof for a specified
19 period determined by the practitioner's licensing board, not to exceed one year, from the requirement
20 to use electronic prescribing, pursuant to a process established in rules of the board, due to economic
21 hardship, technological limitations that are not reasonably within the control of the practitioner, or
22 other exceptional circumstance demonstrated by the practitioner.

23 (6) In circumstances where electronic prescribing is not available due to RSA 318-
24 B:2, VI-a.

25 (7) For a compounded prescription for a hospice patient or in circumstances where
26 access to electronic prescribing technology is temporarily unavailable to electronically prescribe a
27 controlled drug for a hospice patient.

28 (8) By a veterinarian, until such time that the New Hampshire board of veterinary
29 medicine determines that electronic prescribing software is widely available for veterinarians and
30 notifies the pharmacy board. The board of veterinary medicine shall at least annually make such a
31 determination.

Amendment to HB 143

- Page 2 -

1 (b) A pharmacist who receives a written, oral, or faxed prescription shall not be required
2 to verify that the prescription properly falls under one of the exceptions under subparagraph (a).
3 Pharmacists may continue to dispense medications from otherwise valid written, oral, or faxed
4 prescriptions that are consistent with this section.

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on Bill # HB 143

BILL TITLE: An Act relative to an electronic prescription drug program.

DATE: 2/23/2021

LOB ROOM: 306-8/Remote

MOTION: (Please check one box)

Adoption of
Amendment # 2021-0444h

Moved by Rep. Merchant Seconded by Rep. Marsh Vote: 21 - 0

MOTION: (Please check one box)

OTP/A

Moved by Rep. Merchant Seconded by Rep. Marsh Vote: 19 - 2

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: Kofalt Motion ITL

Respectfully submitted: BAF
Rep. Beth Folsom, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 10:06:45 AM
Roll Call Committee Registers
Report

2021 SESSION

Health, Human Services and Elderly Affairs

Bill #: HB 143 Motion: OTPA AM #: _____ Exec Session Date: 2/23/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearson, Mark A. Chairman	19		
Marsh, William M. Vice Chairman	1		
McMahon, Charles E.	2		
Nelson, Bill G.	3		
Acton, Dennis F.	4		
Gay, Betty I.	5		
Cushman, Leah P.		1	
Folsom, Beth A. Clerk	6		
Kelsey, Niki	7		
King, Bill C.	8		
Kofalt, Jim		2	
Weber, Lucy M.	9		
MacKay, James R.	10		
Snow, Kendall A.	11		
Knirk, Jerry L.	12		
Salloway, Jeffrey C.	13		
Cannon, Gerri D.	14		
Nutter-Upham, Frances E.	15		
Schapiro, Joe	16		
Woods, Gary L.	17		

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 10:06:45 AM
Roll Call Committee Registers
Report

2021 SESSION

Health, Human Services and Elderly Affairs

Bill #: HB 143 Motion: OTPA AM #: _____ Exec Session Date: 2/23/2021

Merchant, Gary		18		
TOTAL VOTE:		19	2	0

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 10:06:45 AM
Roll Call Committee Registers
Report

2021 SESSION

Health, Human Services and Elderly Affairs

Bill #: 143 Motion: OTP AM #: 2021-0444h Exec Session Date: 2/23/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearson, Mark A. Chairman	21		
Marsh, William M. Vice Chairman	1		
McMahon, Charles E.	2		
Nelson, Bill G.	3		
Acton, Dennis F.	4		
Gay, Betty I.	5		
Cushman, Leah P.	6		
Folsom, Beth A. Clerk	7		
Kelsey, Niki	8		
King, Bill C.	9		
Kofalt, Jim	10		
Weber, Lucy M.	11		
MacKay, James R.	12		
Snow, Kendall A.	13		
Knirk, Jerry L.	14		
Salloway, Jeffrey C.	15		
Cannon, Gerri D.	16		
Nutter-Upham, Frances E.	17		
Schapiro, Joe	18		
Woods, Gary L.	19		

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 10:06:45 AM
Roll Call Committee Registers
Report

2021 SESSION

Health, Human Services and Elderly Affairs

Bill #: 143 Motion: OTP AM #: 2021-0444h Exec Session Date: 2/23/2021

Merchant, Gary		20		
TOTAL VOTE:		21	0	0

Amendment to HB 143

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4 inserting after paragraph II the following new paragraph:

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6 prescription for a controlled drug unless the prescription is made by electronic prescription from the
7 person issuing the prescription to a pharmacy and the electronic prescription contains the
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Amendment to HB 143

- Page 2 -

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2 to verify that the prescription properly falls under one of the exceptions under subparagraph (a).
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4 prescriptions that are consistent with this section.

UNAPPROVED

Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS
PUBLIC HEARING on Bill # HB143

BILL TITLE: An Act Relative to an electronic prescription drug program.

DATE: 2/26/2021

ROOM: 306-8/Remote

Time Public Hearing Called to Order: 9:25am

Time Adjourned: 10:00 am

Committee Members: Reps. M. Pearson, Marsh, McMahon, Nelson, Acton, Gay, Cushman, Kelsey, B. King, Kofalt, Weber, MacKay, Snow, Knirk, Salloway, Cannon, Nutter-Upham, Schapiro, Woods and Merchant

TESTIMONY

Rep. Merchant introduced bill.

All forms of payment should be accepted for e-prescribing. Paper prescriptions are easy to falsify. Twenty-six states allow this. Practice fusion system had a threshold that triggers a flag so that it will be directed to software vendors often favoring certain companies. Electronic prescriptions are easier to use and follow-up on. Veterinarians will be exempt because they do not have the software. They also will not be able to access it when they are in the field. The veterinary board of medicine will make a decision as to when it will work for them.

Paula miniham - nh hospital association

she supports electronic prescriptions for controlled substances. It is easier to do and is safer.

Dr. Jane barlow roy - nh veterinary association

She is opposed as written. Software not available. Thirteen other states exempt veterinarians.

Jeanna bacus - granite state hospice - Supports

Suggests exemption - compound meds with controlled drugs. (nurse may not be able to get access after hours, i.e. Pharmacy closed, etc.)

Honorable Neil Kirk - Opposed

If a patient has a paper copy, they can look for a cheaper pharmacy. He noted several other problems in wording, some contradictions.

Rep. Merchant

would like to make adjustments in an amendment.

Respectfully submitted,

Rep. Beth Folsom, Clerk

House Remote Testify

Health, Human Services and Elderly Affairs Committee Testify List for Bill HB143 on 2021-02-16

Support: 10 Oppose: 18 Neutral: 1 Total to Testify: 4

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Minnehan, Paula	pminnehan@nhha.org	A Lobbyist	NH Hospital Association	Support	Yes (3m)	2/15/2021 1:37 PM
Balkus, Gina	gbalkus@homecarenh.org	A Lobbyist	Granite State Home Health & Hospice Association	Support	Yes (3m)	2/15/2021 5:18 PM
Barlow Roy, Jane	Janebarlowroy@gmail.com	A Member of the Public	New Hampshire Veterinary Medical Association	Oppose	Yes (3m)	2/15/2021 7:20 PM
kurk, neal	rep03281@aol.com	A Member of the Public	Myself	Oppose	Yes (3m)	2/15/2021 9:13 AM
Moulton, Candace	candaceleighm@gmail.com	A Member of the Public	Myself	Support	No	2/15/2021 1:16 PM
Torpey, Jeanne	jtorp51@comcast.net	A Member of the Public	Myself	Oppose	No	2/15/2021 1:32 PM
McCalley, Jennifer	jenniferamccalley@gmail.com	A Member of the Public	Myself	Support	No	2/11/2021 4:40 PM
Fordey, Nicole	nikkif610@gmail.com	A Member of the Public	Myself	Oppose	No	2/13/2021 8:13 PM
Edwards, Rep Jess	jess.edwards@leg.state.nh.us	An Elected Official	Rockingham District 4 (Auburn, Chester, Sandown)	Support	No	2/14/2021 11:51 AM
Westlake, Jane	janewestlake57@gmail.com	A Member of the Public	Myself	Oppose	No	2/14/2021 7:18 PM
Connolly, Brenna	connolly.brenna@gmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 6:26 PM
Mennella, Alexandra	amennella1@protonmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 6:45 PM
DeMark, Richard	demarknh114@gmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 9:15 PM
Thomas, Nicholas	nicholas.w.thomas@uconn.edu	A Member of the Public	Myself	Oppose	No	2/15/2021 9:18 PM
ARONSON, LAURA	laura@mlans.net	A Member of the Public	Myself	Oppose	No	2/15/2021 11:08 PM
Woods, Renia	woods.gary@comcast.net	A Member of the Public	Myself	Support	No	2/15/2021 11:35 PM
Arnold, Neil	krisarn@myfairpoint.net	A Member of the Public	Myself	Oppose	No	2/15/2021 11:49 PM
Grimbilas, Jodi	jodi@jgstrategies.com	A Lobbyist	CVS Health	Support	No	2/16/2021 6:12 AM
Stoddard, Kristine	kstoddard@bistatepca.org	A Lobbyist	Bi-State Primary Care Association	Support	No	2/16/2021 8:01 AM

Mcdermott, janice	jmcdermott@homecarenh.org	A Member of the Public	Myself	Neutral	No	2/16/2021 8:51 AM
perez, maria	mariaeli63@gmail.com	An Elected Official	District 23	Oppose	No	2/16/2021 9:06 AM
Jakubowski, Deborah	Dendeb146@gmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 2:20 PM
jakubowski, dennis	dendeb146@gmail.com	A Member of the Public	Myself	Support	No	2/15/2021 2:21 PM
jakubowski, d	loudondemsandind@gmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 2:25 PM
Frost, Sherry	sherry.frost@leg.state.nh.us	An Elected Official	Myself	Support	No	2/15/2021 2:28 PM
Groetzing, Tonda	groetzing6@aol.com	A Member of the Public	Myself	Oppose	No	2/15/2021 2:35 PM
Hayward, Marcia	mjhayward131@gmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 3:04 PM
Hope, Lucinda	lmhope46@gmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 4:21 PM
McCue, Dara	daramccue@gmail.com	A Member of the Public	Myself	Oppose	No	2/15/2021 4:23 PM

Testimony

Rep. Gary Merchant
Sullivan District 4, Claremont
Health, Human Services, and Elderly Affairs
603-558-1389
Gary.merchant@leg.state.nh.us

HB 143

Thank you, Mister Chairmen, members of the Health, Human Services and Elderly Affairs Committee, colleagues, and public members. My name is Rep. Gary Merchant, Sullivan County, District 4, Claremont, Ward 2.

I come before you today to introduce HB 143, which contains three sections, and Amendment 2021-0301h.

- A requirement for electronic prescribing or e-prescribing of controlled substances (commonly referred to as controlled drugs or medications).
- A provision prohibits using clinical decision support alerts or similar warnings utilizing announcements in electronic health records software designed to increase prescriptions for scheduled substances.
- A requirement for pharmacy data submitted to the Prescription Drug Monitoring Program to include the prescription format.
- Amendment 2021-0301h

E-Prescribing - The bill revises a section of RSA 318:47-c, I(b) that permits a patient to request a paper prescription **except** for a prescription of a controlled drug as defined by RSA 318-B:1, VI which refers to RSA 318-B:1-a.

Currently, 26 states require e-prescribing of all controlled substances or Schedule II controlled substances like opioids or stimulants.

The Medicare Modernization Act of 2003 included a provision for electronic prescribing of medications, which provided momentum for e-prescribing. To address the opioid crisis, Congress passed the SUPPORT Act in 2018 to require e-prescribing of controlled substances paid for by Medicare Part D plans. CMS delayed implementation of the law for 12 months until January 2022.

Why does New Hampshire need a state law when Medicare already requires e-prescribing of a controlled substance? Federal law only applies to prescriptions paid for by CMS under a Part D drug benefit plan excluding a significant, if not a majority, of pain prescriptions.

This bill augments the SUPPORT Act and CMS by requiring that all prescriptions for a controlled substance are e-prescribed to a pharmacy regardless of payment.

The bill allows a provider to request a waiver and includes several exceptions to avoid delaying a patient obtaining a controlled substance. As a pharmacist would not know the prescribers' reason for an exception and to avoid delaying a patient from getting the medication, the bill does not require a pharmacist to verify why the prescriber did not e-prescribe the drug.

Additionally, insurance carriers often require a pharmacist to note the reason for prescribing an opioid as for acute or chronic pain, and the Drug Enforcement Agency (DEA) places a corresponding responsibility on pharmacists to ensure the legitimacy of a prescription for a controlled substance. E-prescribing allows a provider to communicate a diagnosis or include a note regarding acute or chronic pain, information a pharmacist may need to dispense the drug.

Clinical Alerts – In January of 2020, Allscripts' Practice Fusion agreed to pay \$145 Million to resolve criminal and civil investigations by the Department of Justice related to an illegal arrangement with a major opioid manufacturer. Practice Fusion received payments from pharmaceutical manufacturers to create and implement Clinical Decision Supports used by providers to make clinical decisions. Practice Fusion alerts encouraged providers to evaluate a patient's pain. When a patient's pain hit a certain level, the program generated an Opioid Therapy treatment option that included drugs manufactured by pharmaceutical companies who provided payments to Practice Fusion.

Language incorporated in this bill addresses this concern by adding a provision (language) to the Consumer Protection Act's deceptive practices section.

Pharmacy Data – To monitor use of e-prescribing of controlled substances, the bill requires a pharmacy to include each prescription's format for a controlled substance in the data stream sent to the Prescription Drug Monitoring Program.

The program database's inclusion of this data allows the program to periodically run reports for licensing boards to monitor voluntary use of e-prescribing of controlled substances.

Note – the bill does not include any reference for compliance levels, or a penalty or discipline found in other states, rather encourages greater utilization through monitoring and education.

Amendment 2021-0301h – In correspondence with Dr. Stephen Crawford, state veterinarian, and Dr. Jane Roy-Barlow, a practicing veterinarian, I learned of significant issues related to software availability for veterinarians e-prescribing. To address this concern, the amendment models the Arizona law that exempts veterinarians until such time the state board of veterinary medicine determines that e-prescribing software is widely available.



HOUSE HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS COMMITTEE

February 16, 2021

HB 143 – Relative to An Electronic Prescription Drug Program

Testimony

Good morning, Mr. Chairman and members of the committee. My name is Paula Minnehan, Senior Vice President with the New Hampshire Hospital Association (NHHA), representing all 26 of the state's community hospitals as well as all specialty hospitals.

The NHHA is supportive of HB 143. A similar bill passed out of this committee last year (HB 1332) but did not make it over to the Senate due to the COVID-19 pandemic situation.

I want to make it clear to this committee that the hospitals in New Hampshire are supportive of requiring electronic prescribing for controlled substances. The reasons for moving to electronic prescribing for controlled substances are compelling, including:

- Enhances the safety and quality of the prescribing process
- Reduces prescription drug errors
- Supports clinical decision making
- Notifies clinicians of allergies, drug interactions, duplicate medications and other clinical alerts
- Monitors how many controlled prescriptions a patient has received
- Enhances communication between prescribers and dispensers
- Reduces theft and increases security

In fact, many hospitals have already implemented electronic prescribing for controlled substances. Several others are in the midst of their implementation and the rest have plans for implementation within the year.

Thank you for the opportunity to provide our comments in support of HB 143.

Archived: Wednesday, March 17, 2021 3:37:53 PM
From: [Paula Minnehan](#)
Sent: Monday, February 15, 2021 1:47:30 PM
To: ~House Health Human Services and Elderly Affairs
Subject: 2/16/2021 HB 143 Hearing Testimony from NHHA
Importance: Normal
Attachments:
HB 143 Testimony 02162021 FINAL.pdf ;

Good Afternoon,

Attached is NHHA's testimony on HB 143, which will be heard in House HHS committee on Tuesday, February 16, 2021 beginning at 9:00 am.

Thank you,
Paula

Paula M. Minnehan
Senior Vice President, State Government Relations
New Hampshire Hospital Association
125 Airport Road
Concord, NH 03301
(603) 415-4254 (direct dial)
(603) 496-1047 (cell)
pminnehan@nhha.org
www.nhha.org



find us on [facebook](#) and [twitter](#)



Bill as
Introduced

HB 143 - AS INTRODUCED

2021 SESSION

21-0105

10/05

HOUSE BILL **143**

AN ACT relative to an electronic prescription drug program.

SPONSORS: Rep. Merchant, Sull. 4

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires electronic prescribing for controlled drugs under certain circumstances.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to an electronic prescription drug program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Pharmacists and Pharmacies; Prescriptions. Amend RSA 318:47-c, I(b) to read as follows:

2 (b) A patient shall be entitled to receive a paper prescription instead of an oral or
3 electronically transmitted prescription, ***except prescriptions for controlled drugs as defined in***
4 ***RSA 318-B:1, VI.***

5 2 New Paragraph; Pharmacists and Pharmacies; Prescriptions. Amend RSA 318:47-c by
6 inserting after paragraph II the following new paragraph:

7 III.(a) Notwithstanding any provision of law to the contrary, no person shall issue a
8 prescription for a controlled drug unless the prescription is made by electronic prescription from the
9 person issuing the prescription to a pharmacy and the electronic prescription contains the
10 information and signature required in paragraph II, except for prescriptions issued:

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14 Hampshire, provided that such pharmacy complies with the laws and regulations of the state where
15 the pharmacy is located.

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23 technological limitations that are not reasonably within the control of the practitioner, or other
24 exceptional circumstance demonstrated by the practitioner.

25 (6) In circumstances where electronic prescribing is not available due to RSA 318-
26 B:2, VI-a.

27 (b) A pharmacist who receives a written, oral, or faxed prescription shall not be required
28 to verify that the prescription properly falls under one of the exceptions under subparagraph (a).
29 Pharmacists may continue to dispense medications from otherwise valid written, oral, or faxed
30 prescriptions that are consistent with this section.

31 3 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after

HB 143 - AS INTRODUCED
- Page 2 -

1 paragraph VI the following new paragraph:

2 VI-a. No person or entity shall issue clinical decision support alerts or similar notices,
3 warnings, or announcements by means of electronic health record software or similar electronic
4 means designed to increase prescriptions for scheduled drug products, in violation of the Anti-
5 Kickback Statute 42 U.S.C. section 1320a-7b(b), or with the intent to defraud the United States
6 pursuant to 18 U.S.C. section 371.

7 4 New Paragraph; Consumer Protection; Acts Unlawful. Amend RSA 358-A:2 by inserting after
8 paragraph XVII the following new paragraph:

9 XVIII. Issuing clinical decision support alerts or similar notices, warnings, or
10 announcements by means of electronic health record software or similar electronic means designed
11 to increase prescriptions for scheduled drug products, in violation of the Anti-Kickback Statute 42
12 U.S.C. section 1320a-7b(b), or with the intent to defraud the United States pursuant to 18 U.S.C.
13 section 371.

14 5 New Subparagraph; Controlled Drug Prescription Health and Safety Program; Dispenser
15 Report. Amend RSA 318-B:33, IV by inserting after subparagraph (o) the following new
16 subparagraph:

17 (p) The format of the prescription: electronic, faxed, written, oral, or other.

18 6 Effective Date. This act shall take effect January 1, 2022.