

The House Committee on Health & Human Services offers the following substitute to SB 179:

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Patient Safe Prescription Drug Act"; to amend Chapter 4 of Title 26 of the
2 Official Code of Georgia Annotated, relating to pharmacists and pharmacies, so as to provide
3 for electronic data prescription drug orders; to define certain terms; to require electronic data
4 prescription drug orders to meet certain requirements; to prohibit access to electronic data
5 prescription drug orders from the time of transmission until receipt by the designated
6 pharmacy; to prohibit certain restrictions of practitioners; to prohibit the restriction of a
7 patient's choice of retail pharmacy; to provide for an exemption for institutions using
8 electronic medical record systems; to change certain provisions relating to substitution of
9 generic drugs for name brand drugs; to provide that incentives may be offered to pharmacies,
10 pharmacists, and practitioners that accept or utilize electronic data prescription drug orders;
11 to provide for related matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 This Act shall be known and may be cited as the "Patient Safe Prescription Drug Act."

15 **SECTION 2.**

16 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and
17 pharmacies, is amended by adding to Code Section 26-4-5, relating to definitions, new
18 paragraphs (14.1) through (14.5), (18.05), and (38.5) to read as follows:

19 "(14.1) 'Electronic data prescription drug order' means any digitalized prescription drug
20 order transmitted to a pharmacy, other than by facsimile, which contains the secure,
21 personalized digital key, code, number, or other identifier used to identify and
22 authenticate the prescribing practitioner in a manner required by state laws and board
23 regulations and includes all other information required by state laws and board
24 regulations.

25 (14.2) 'Electronic data signature' means:

(A) A secure, personalized digital key, code, number, or other identifier used for secure electronic data transmissions which identifies and authenticates the prescribing practitioner as a part of an electronic data prescription drug order transmitted to a pharmacy; or

(B) An electronic symbol or process attached to or logically associated with a record and executed or adopted by a prescribing practitioner with the intent to sign an electronic data prescription drug order, which identifies the prescribing practitioner, as a part of an electronic data prescription drug order transmitted to a pharmacy.

(14.3) 'Electronic signature' means an electronic visual image signature or an electronic data signature of a practitioner which appears on an electronic prescription drug order.

(14.4) 'Electronic visual image prescription drug order' means any exact visual image of a prescription drug order issued by a practitioner electronically and which bears an electronic reproduction of the visual image of the practitioner's signature, is either printed on security paper and presented as a hard copy to the patient or transmitted by the practitioner via facsimile machine or equipment to a pharmacy, and contains all information required by state law and regulations of the board.

(14.5) 'Electronic visual image signature' means any exact visual image of a practitioner's signature reproduced electronically on a hard copy prescription drug order presented to the patient by the practitioner or is a prescription drug order transmitted to a pharmacy by a practitioner via facsimile machine or equipment."

"(18.05) 'Hard copy prescription drug order' means a written, typed, reproduced, or printed prescription drug order prepared on a piece of paper."

"(38.5) 'Security paper' means paper utilizing security features on which the electronic visual image prescription drug order of a practitioner is printed and presented to a patient so as to ensure that the prescription drug order is not subject to any form of copying, reproduction, or alteration, or any combination of copying, reproduction, or alteration, and may include a watermark produced by the electronic digital process when a prescription is printed to clearly show if a prescription has been reproduced or copied in an unauthorized manner."

SECTION 3.

Said chapter is further amended by striking paragraph (36) of Code Section 26-4-5, relating to definitions, and inserting in its place the following:

"(36) 'Prescription drug order' means a lawful order of a practitioner for a drug or device for a specific patient; such order includes an electronic visual image prescription drug order and an electronic data prescription drug order."

SECTION 4.

Said chapter is further amended by striking subsections (c), (i), and (l) of Code Section 26-4-80, relating to dispensing, electronically transmitted drug orders, refills, and Schedule II controlled substance prescriptions, and inserting in their respective places the following:

"(c) A prescription drug order may be accepted by a pharmacist, ~~or pharmacy intern, or extern~~ in written form, orally, ~~via facsimile, or electronically~~ via an electronic visual image prescription drug order, or an electronic data prescription drug order as set forth in this chapter or as set forth in regulations promulgated by the board. Provisions for accepting a prescription drug order for a Schedule II controlled substance are set forth in subsection (l) of this Code section, the board's regulations, or the regulations of the United States Drug Enforcement Administration in 21 C.F.R. 1306. Electronic prescription drug orders shall either be an electronic visual image of a prescription drug order or an electronic data prescription drug order and shall meet the requirements set forth in regulations promulgated by the board. A hard copy prescription prepared by a practitioner or a practitioner's agent, which bears an electronic visual image of the practitioner's signature and is not sent by facsimile, must be printed on security paper. Prescriptions transmitted either electronically or via facsimile shall meet the following requirements:

(1) Electronically transmitted prescription drug orders shall be transmitted by the practitioner or, in the case of a prescription drug order to be transmitted via facsimile, by the practitioner or the practitioner's agent under supervision of the practitioner, to the pharmacy of the patient's choice with no intervening person or intermediary having access to the prescription drug order;

(2) Prescription drug orders transmitted by facsimile or computer shall include:

(A) In the case of a prescription drug order for a dangerous drug, the complete name and address of the practitioner;

(B) In the case of a prescription drug order for a controlled substance, the complete name, address, and DEA registration number of the practitioner;

(C) The telephone number of the practitioner for verbal confirmation;

(D) The name and address of the patient;

(E) The time and date of the transmission; ~~and~~

(F) The full name of the person transmitting the order; and

(G) The signature of the practitioner in a manner as defined in regulations promulgated by the board or, in the case of a controlled substances prescription, in accordance with 21 C.F.R. 1301.22;

(3) An electronically transmitted, issued, or produced prescription drug order which meets the requirements of this Code section shall be deemed the original order;

(4) The pharmacist shall exercise professional judgment regarding the accuracy and authenticity of ~~the~~ any electronically transmitted, issued, or produced prescription drug order consistent with federal and state laws and rules and regulations adopted pursuant to the same;

(5) An electronically ~~transmitted~~ encrypted, issued, or produced prescription drug order transmitted from a ~~prescriber~~ practitioner to a pharmacist shall be considered a highly confidential transaction and the said transmission, issuance, or production shall not be compromised by interventions, control, change, altering, ~~or manipulation, or accessing~~ patient record information by any other person or party in any manner whatsoever between the time after the practitioner has electronically transmitted, issued, or produced a prescription drug order and such order has been received by the pharmacy of the patient's choice;

(6) Any pharmacist that transmits, receives, or maintains any prescription or prescription refill either orally, in writing, or electronically shall ensure the security, integrity, and confidentiality of the prescription and any information contained therein; and

(7) The board shall promulgate rules and regulations which may provide specific exceptions under this Code section for institutional settings such as hospital pharmacies, nursing home pharmacies, clinic pharmacies, or pharmacies owned or operated directly by health maintenance organizations."

"(i) ~~A written~~ All prescription drug ~~order~~ orders must bear ~~an original~~ the signature of the prescribing practitioner as defined in Code Section 16-13-21. Physician's assistants must comply with all applicable laws regarding signatures. Further, the nature of such signature must meet the requirements set forth in regulations promulgated by the board. A physically applied signature stamp or other signature facsimile is not acceptable in lieu of an original signature. When Except as otherwise provided for in this subsection, when an oral prescription drug order or the oral authorization for the refilling of a prescription drug order is received which ~~is~~ has been transmitted by someone other than the practitioner, the name of the individual making the transmission and the date, time, and location of the origin of the transmission must be recorded on the original prescription drug order or other ~~uniform~~ record by the pharmacist receiving the transmission. No one other than the practitioner or an agent authorized by the practitioner shall transmit such prescriptions in any manner. In institutional settings such as hospital pharmacies, nursing home pharmacies, clinic pharmacies, or pharmacies owned or operated directly by health maintenance organizations, the name of the individual making the transmission is not required to be placed on the order."

"(l) A Schedule II controlled substance prescription drug order in written form signed in indelible ink by the practitioner may be accepted by a pharmacist and the Schedule II

1 controlled substance may be dispensed by such pharmacist. Other forms of Schedule II
2 controlled substance prescription ~~forms~~ drug orders may be accepted by a pharmacist and
3 the Schedule II controlled substance may be dispensed by such pharmacist in accordance
4 with regulations promulgated by the board and in accordance with DEA regulations found
5 in 21 C.F.R. 1306."

6 SECTION 5.

7 Said chapter is further amended by adding at the end of Code Section 26-4-80, relating to
8 dispensing, electronically transmitted drug orders, refills, and Schedule II controlled
9 substance prescriptions, new subsections (m), (n), and (o) to read as follows:

10 "(m) No licensee nor any other entity shall be permitted to provide facsimile machines or
11 equipment, computer software, technology, hardware, or supplies related to the electronic
12 transmission of prescription drug orders to any practitioner which restricts such practitioner
13 from issuing prescription drug orders for certain prescription drugs or restricts a patient
14 from choosing the retail pharmacy to which an electronic prescription drug order may be
15 transmitted.

16 (n) Institutions including, but not limited to, hospitals, long-term care facilities, and
17 inpatient hospice facilities which utilize electronic medical record systems that meet the
18 information requirements for prescription drug orders for patients pursuant to this Code
19 section shall be considered to be in compliance with this Code section.

20 (o) Nothing in this Code section shall be construed to prohibit any insurance company,
21 hospital or medical service plan, health care provider network, health maintenance
22 organization, health care plan, employer, or other similar entity providing health insurance
23 from offering incentives to pharmacies, pharmacists, and practitioners that accept or utilize
24 electronic data prescription drug orders."

25 SECTION 6.

26 Said chapter is further amended by striking subsection (g) of Code Section 26-4-81, relating
27 to substitution of generic drugs for name brand drugs, and inserting in its place the following:

28 "(g) A practitioner of the healing arts may instruct the pharmacist not to substitute a
29 generic name drug in lieu of a brand name drug by including the words 'brand necessary'
30 in the body of the prescription. When a prescription is a hard copy prescription drug order,
31 such ~~Such~~ indication of brand necessary must be in the practitioner's own handwriting and
32 shall not be printed, applied by rubber stamp, or any such similar means."

33 SECTION 7.

34 All laws and parts of laws in conflict with this Act are repealed.