

2018 Regular Session

HOUSE BILL NO. 548

BY REPRESENTATIVE DUSTIN MILLER

DRUGS/PRESCRIPTION: Requires that the prescribers transmit prescriptions for opioids to pharmacies electronically

1 AN ACT

2 To enact R.S. 37:1701.1 through 1701.3, relative to electronic prescriptions of opioids; to  
3 provide for duties of prescription prescribers; to provide for mandatory electronic  
4 prescriptions; to provide for the duties of the Louisiana Board of Medical Examiners,  
5 Louisiana Board of Pharmacy, and the Louisiana State Board of Dentistry; to provide  
6 for exceptions; to provide for penalties, to provide for rules and regulations; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:1701.1 through 1701.3 are hereby enacted to read as follows:

10 §1701.1. Electronic prescriptions

11 A. Notwithstanding any law to the contrary, effective January 1, 2020, no  
12 physician, surgeon, optometrist, medical psychologist, dentist or any other opioid  
13 prescriber, shall issue any prescription in this state unless such prescription is  
14 generated by electronic prescription from the prescriber issuing the prescription  
15 directly to a pharmacy of the patient's choice, or in the alternative, through a secure  
16 electronic data intermediary to the pharmacy. No such data intermediary shall alter  
17 or allow unauthorized access to prescription transactions.

18 B. (1) Any reasonable cost, fees, or expenses incurred for the transfer of an  
19 electronically transmitted prescription may be charged to the pharmacy, provided the  
20 cost, fee, or expense is consistent between every pharmacy in this state.

1           (2) A pharmacy can only be charged once for a medication and only if the  
2           prescription is filled.

3           §1701.2. Exceptions, data requirements, and penalties

4           A. The prescribing of electronic prescriptions shall not apply to prescriptions  
5           issued:

6           (1) By veterinarians.

7           (2) In circumstances where electronic prescribing is not available due to  
8           temporary technological or electrical failure.

9           (3) By a practitioner to be dispensed by a pharmacy located outside the  
10          state.

11          (4) When the prescriber and dispenser are the same entity.

12          (5) That include elements that are not supported by the most recently  
13          implemented version of the National Council for Prescription Drug Programs  
14          Prescriber/Pharmacist Interface SCRIPT Standard.

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

18          (7) By a practitioner allowing for the dispensing of a non-patient specific  
19          prescription pursuant to a standing order, approved protocol for drug therapy,  
20          collaborative drug management or comprehensive medication management, in  
21          response to a public health emergency, or other circumstances where the practitioner  
22          may issue a non-patient specific prescription.

23          (8) By a practitioner prescribing a drug under a research protocol.

24          (9) By practitioners who have received a waiver or a renewal thereof from  
25          the requirement to use electronic prescribing.

26          (10) By a practitioner under circumstances where, notwithstanding the  
27          practitioner's present ability to make an electronic prescription as required by this  
28          Subsection, such practitioner reasonably determines that it would be impractical for

1 the patient to obtain substances prescribed by electronic prescription in a timely  
2 manner, and such delay would adversely impact the patient's medical condition.

3 B. Pharmacists may continue to dispense medications from otherwise valid  
4 written, oral, or facsimile prescriptions that are consistent with current state laws and  
5 regulations.

6 C. A practitioner dispensing prescriptions shall include minimum data  
7 elements on each prescription label as required by rules promulgated by the  
8 Louisiana Board of Pharmacy.

9 D. A pharmacy that receives an electronic prescription may, if the  
10 prescription has not been dispensed, and at the request of the patient or patient's  
11 authorized agent, transfer or forward the prescription to an alternative pharmacy  
12 designated by the patient or patient's authorized agent, in compliance with rules  
13 promulgated by the Louisiana Board of Pharmacy.

14 E. Notwithstanding any provision of law to the contrary, at minimum, a  
15 violation of this Section shall constitute unprofessional conduct and grounds for  
16 disciplinary action by the prescribing practitioners health profession licensing board.  
17 Each health profession licensing board that regulates prescribers shall promulgate  
18 rules to implement and enforce the provisions of this Section relative to prescribing  
19 practitioners under their jurisdiction.

20 §1701.3. Patient prescription drug information

21 A. No patient prescription drug information or other information acquired  
22 from an electronic prescription or prescription form, including de-identified  
23 information, may be transferred, received, or used for data-mining, marketing, or  
24 other transfer by a person or entity without the written consent of the patient or a  
25 person authorized by law to act on behalf of the patient.

26 B. For the purpose of this Section, the following terms have the following  
27 meaning:

28 (1) "Patient prescription drug information" means data that is conveyed by  
29 or on behalf of a practitioner in ordering a prescription drug or device before being

- 1        dispensed and that identifies the patient as the recipient of the prescription drug or  
2        device.
- 3                (2) "Data-mining" means the practice of electronically sorting data through  
4        statistical modeling, intelligent technologies, and other methods in order to uncover  
5        patterns, relationships, and any other indicator.
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## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 548 Engrossed

2018 Regular Session

Dustin Miller

**Abstract:** Requires prescribers to transmit opioid prescriptions to pharmacies electronically.

Proposed law requires prescribers of opioid prescriptions to transmit request electronically.

Proposed law provides that any cost, fees, or expenses incurred for the transfer of an electronically transmitted prescription may be charged to the pharmacy, provided the cost, fee, or expense is consistent between every pharmacy in this state.

Proposed law provides that a pharmacy can only be charged once for a medication and only if the prescription is filled.

Proposed law provides the following as exceptions to electronic prescriptions:

- (1) Veterinarians.
- (2) Circumstances where electronic prescribing is not available due to temporary technological or electrical failure.
- (3) By a practitioner to be dispensed by a pharmacy located outside the state.
- (4) When the prescriber and dispenser are the same entity.
- (5) Elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.
- (6) Issued by a practitioner for a drug that the federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be accomplished with electronic prescribing.
- (7) By a practitioner allowing for the dispensing of a non-patient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a non-patient specific prescription.
- (8) By a practitioner prescribing a drug under a research protocol.

(9) By practitioners who have received a waiver or a renewal thereof from the requirement to use electronic prescribing.

(10) By a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this Subsection, such practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition.

Proposed law provides for minimum data requirements in dispensing prescriptions.

Proposed law provides that the minimum penalty for violating electronic prescriptions of opioids shall constitute unprofessional conduct and grounds for disciplinary action by the prescribing prescribers health profession licensing board.

Proposed law provides that no patient prescription drug information or other information acquired from an electronic prescription or prescription form, may be used for data mining.

Proposed law provides for definitions.

Proposed law allows each professional licensing board to establish rules to carry out proposed law.

(Adds R.S. 37:1701.1-1701.3 )

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Limit mandatory electronic prescriptions to only opioids.
2. Add that any cost, fees, or expenses incurred for the transfer of an electronically transmitted prescription may be charged to the pharmacy, provided the cost, fee, or expense is consistent between every pharmacy in this state.
3. Add that a pharmacy can only be charged once for a medication and only if the prescription is filled.
4. Add minimum data requirements in dispensing prescriptions.
5. Add that no patient prescription drug information or other information acquired from an electronic prescription or prescription form, may be used for data mining.
6. Add penalties.
7. Add definitions.
8. Make technical changes.