

Amendment to HB 1332

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Pharmacists and Pharmacies; Prescriptions. Amend RSA 318:47-c, I(b) to read as follows:

4 (b) A patient shall be entitled to receive a paper prescription instead of an oral or  
5 electronically transmitted prescription, except prescriptions for controlled drugs as defined in RSA  
6 318-B:1,VI.

7 2 New Paragraphs; Pharmacists and Pharmacies; Prescriptions. Amend RSA 318:47-c by  
8 inserting after paragraph II the following new paragraphs:

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

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

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

18 (3) When the prescriber is the dispenser.

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

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

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

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

**Amendment to HB 1332**  
**- Page 2 -**

1           IV. Notwithstanding any provision of the law to the contrary, no pharmacist shall dispense a  
2 prescription for a controlled drug unless the prescription is made by an electronic prescription that  
3 includes the information and signature as provided in paragraph II, except for prescriptions  
4 excluded under subparagraph III(a).

5           3 New Paragraph; Controlled Drug Act; Acts Prohibited. Amend RSA 318-B:2 by inserting after  
6 paragraph VI the following new paragraph:

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

12           4 New Paragraph; Consumer Protection; Acts Unlawful. Amend RSA 358-A:2 by inserting after  
13 paragraph XVII the following new paragraph:

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

19           5 Effective Date. This act shall take effect January 1, 2022.