
Health Care & Wellness Committee

SSB 5826

Brief Description: Requiring tamper-resistant prescription pads.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser and Parlette).

Brief Summary of Substitute Bill

- Requires that every prescription written by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the Board of Pharmacy (Board).
- Directs the Board to create a seal of approval that confirms that a prescription pad or paper contains specified tamper-resistant characteristics.

Hearing Date: 3/12/09

Staff: Kyle Gotchy (786-7119); and Jim Morishima (786-7191)

Background:

Medicaid Tamper-Resistant Prescription Law.

Starting on October 1, 2008, in order for Medicaid outpatient drugs to be reimbursable by the federal government, all written, non-electronic prescriptions were required to contain at least three tamper-resistant features, one from each of the following three industry-recognized baseline characteristics outlined in guidance issued by the Centers for Medicare and Medicaid Services (CMS):

1. one or more features designed to prevent unauthorized copying of a completed or blank prescription form;
2. one or more features designed to prevent the erasure or modification of information written on the prescription by the prescriber; and
3. one or more features designed to prevent the use of counterfeit prescription forms.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Although CMS has provided the above baseline characteristics of tamper-resistant prescriptions, each state has the authority to define which features it will require to meet those characteristics in order to be considered tamper-resistant. The baseline characteristics must:

1. prevent unauthorized copying of a completed or blank prescription form;
2. prevent the erasure or modification of information written on the prescription by the prescriber; and
3. prevent the use of counterfeit prescription forms.

Electronic-Prescription Exceptions.

An e-prescription is a computer-generated prescription created by a patient's health care provider and sent directly to a pharmacy. The CMS encourages the use of e-prescriptions as an effective and efficient method of communicating prescriptions to pharmacists. Consequently, the described Medicaid requirements do not apply to e-prescriptions transmitted to a pharmacy, prescriptions faxed to a pharmacy, or prescriptions communicated to the pharmacy by telephone by a prescriber.

Summary of Bill:

Prescription Pad Requirements.

Effective July 1, 2010, every prescription written by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the Board of Pharmacy (Board).

Pharmacists may not fill a written prescription from a licensed practitioner unless it is written on an approved tamper-resistant prescription pad or paper. A pharmacist may nonetheless provide emergency supplies in accordance with the Board and other insurance contract requirements.

A tamper-resistant pad or paper must be approved by the Board for use and must contain the following industry-recognized characteristics:

1. one or more features designed to prevent unauthorized copying of a completed or blank prescription form;
2. one or more features designed to prevent the erasure or modification of information written on the prescription by the prescriber; and
3. one or more features designed to prevent the use of counterfeit prescription forms.

Exemptions.

The requirements for tamper-resistant pads or paper do not apply to:

1. prescriptions that are transmitted to the pharmacy by telephone, facsimile, or electronic means; or
2. where the authorized health care practitioner follows defined procedures on prescriptions written for specified individuals, including:
 - a. inpatients and outpatients of a hospital;
 - b. residents of a nursing home;
 - c. inpatients or residents of a mental health facility; and
 - d. incarcerated individuals.

If a hard copy of an e-prescription is given directly to the patient, however, the manually signed hard copy prescription must be on approved tamper-resistant paper.

Seal of Approval.

The Board must create a seal of approval that confirms that a pad or paper contains all three required industry-recognized characteristics. The seal must be affixed to all prescription pads or paper and all vendors must have their tamper-resistant prescription pads or paper approved by the Board prior to the marketing or sale of pads or paper.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.