

115TH CONGRESS
2D SESSION

S. 2460

To amend title XVIII of the Social Security Act to require e-prescribing for coverage under part D of the Medicare program of prescription drugs that are controlled substances.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2018

Mr. BENNET (for himself, Mr. HELLER, Ms. WARREN, and Mr. TOOMEY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to require e-prescribing for coverage under part D of the Medicare program of prescription drugs that are controlled substances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Every Prescription
5 Conveyed Securely Act”.

1 **SEC. 2. REQUIRING E-PRESCRIBING FOR COVERAGE OF**
 2 **COVERED PART D CONTROLLED SUB-**
 3 **STANCES.**

4 (a) IN GENERAL.—Section 1860D–4(e) of the Social
 5 Security Act (42 U.S.C. 1395w–104(e)) is amended by
 6 adding at the end the following:

7 “(7) REQUIREMENT OF E-PRESCRIBING FOR
 8 CONTROLLED SUBSTANCES.—

9 “(A) IN GENERAL.—Subject to subpara-
 10 graph (B), a prescription for a covered part D
 11 drug under a prescription drug plan (or under
 12 an MA–PD plan) for a schedule II, III, IV, or
 13 V controlled substance shall be transmitted by
 14 a health care practitioner electronically in ac-
 15 cordance with an electronic prescription drug
 16 program that meets the requirements of para-
 17 graph (2).

18 “(B) EXCEPTION FOR CERTAIN CIR-
 19 CUMSTANCES.—The Secretary shall, pursuant
 20 to rulemaking, specify circumstances with re-
 21 spect to which the Secretary may waive the re-
 22 quirement under subparagraph (A), with re-
 23 spect to a covered part D drug, including in the
 24 case of—

1 “(i) a prescription issued when the
2 prescriber and dispenser are the same enti-
3 ty;

4 “(ii) a prescription issued that cannot
5 be transmitted electronically due to the
6 constraints of the most recently imple-
7 mented version of the National Council for
8 Prescription Drug Programs SCRIPT
9 Standard;

10 “(iii) a prescription issued by a practi-
11 tioner who has received a waiver or a re-
12 newal thereof for a specified period deter-
13 mined by the Secretary, not to exceed one
14 year, from the requirement to use elec-
15 tronic prescribing, pursuant to a process
16 established by regulation by the Secretary,
17 due to demonstrated economic hardship,
18 technological limitations that are not rea-
19 sonably within the control of the practi-
20 tioner, or other exceptional circumstance
21 demonstrated by the practitioner;

22 “(iv) a prescription issued by a practi-
23 tioner under circumstances in which, not-
24 withstanding the practitioner’s ability to
25 make an electronic prescription as required

1 by this subsection, such practitioner rea-
2 sonably determines that it would be im-
3 practical for the individual involved to ob-
4 tain substances prescribed by electronic
5 prescription in a timely manner, and such
6 delay would adversely impact the individ-
7 ual's medical condition involved;

8 “(v) a prescription issued by a practi-
9 tioner allowing for the dispensing of a non-
10 patient specific prescription pursuant to a
11 standing order, approved protocol for drug
12 therapy, collaborative drug management,
13 or comprehensive medication management,
14 in response to a public health emergency,
15 or other circumstances where the practi-
16 tioner may issue a non-patient specific pre-
17 scription;

18 “(vi) a prescription issued by a practi-
19 tioner prescribing a drug under a research
20 protocol;

21 “(vii) a prescription issued by a prac-
22 titioner for a drug for which the Food and
23 Drug Administration requires the prescrip-
24 tion to contain certain elements that are
25 not able to be accomplished with electronic

1 prescribing such as, a drug with risk eval-
2 uation and mitigation strategies that in-
3 clude elements to assure safe use; and

4 “(viii) a prescription issued by a prac-
5 titioner for an individual who—

6 “(I) receives hospice care under
7 this title; or

8 “(II) is a resident of a long-term
9 care facility, of a facility described in
10 section 1905(d), or of another facility
11 for which frequently abused drugs are
12 dispensed for residents through a con-
13 tract with a single pharmacy.

14 “(C) DISPENSING.—(i) Nothing in this
15 paragraph shall be construed as requiring a
16 sponsor of a prescription drug plan under this
17 part, MA organization offering an MA–PD plan
18 under part C, or a pharmacist to verify that a
19 practitioner, with respect to a prescription for a
20 covered part D drug, has a waiver (or is other-
21 wise exempt) under subparagraph (B) from the
22 requirement under subparagraph (A).

23 “(ii) Nothing in this paragraph shall be
24 construed as affecting the ability of the plan to
25 cover or the pharmacists’ ability to continue to

1 dispense covered part D drugs from otherwise
2 valid written, oral or fax prescriptions that are
3 consistent with laws and regulations.

4 “(iii) Nothing in this paragraph shall be
5 construed as affecting the ability of an indi-
6 vidual who is being prescribed a covered part D
7 drug to designate a particular pharmacy to dis-
8 pense the covered part D drug to the extent
9 consistent with the requirements under sub-
10 section (b)(1) and under this paragraph.

11 “(D) ENFORCEMENT.—The Secretary
12 shall, pursuant to rulemaking, have authority to
13 enforce and specify appropriate penalties for
14 noncompliance with the requirement under sub-
15 paragraph (A).”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 subsection (a) shall apply to coverage of drugs prescribed
18 on or after January 1, 2020.

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