

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2311

BY DELEGATE FOSTER

[Introduced February 12, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §30-5-12d, relating to requiring prescriptions be made by electronic means;
3 and providing exceptions.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS, PHARMACY INTERNS,
AND PHARMACIES.**

§30-5-12d. Mandatory e-prescribing; exceptions.

1 (a) Notwithstanding any other provision of this code to the contrary, effective July 1, 2021,
2 no person may issue any prescription in this state unless the prescription is made by electronic
3 prescription from the person issuing the prescription to a pharmacy in accordance with the
4 requirements of this code, except for prescriptions:
5 (1) Issued by veterinarians;
6 (2) Issued in circumstances where electronic prescribing is not available due to temporary
7 technological or electrical failure, as set forth in regulation;
8 (3) Issued by a medical practitioner to be dispensed by a pharmacy located outside the
9 state, as set forth in regulation;
10 (4) Issued when the prescriber and dispenser are the same entity;
11 (5) Issued that include elements that are not supported by the most recently implemented
12 version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface
13 SCRIPT Standard;
14 (6) Issued by a medical practitioner for a drug that the federal Food and Drug
15 Administration (FDA) requires the prescription to contain certain elements that are not able to be
16 accomplished with electronic prescribing;
17 (7) Issued by a medical practitioner allowing for the dispensing of a nonpatient specific
18 prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug

19 management, or comprehensive medication management, in response to a public health
20 emergency, or other circumstances where the medical practitioner may issue a nonpatient
21 specific prescription;

22 (8) Issued by a medical practitioner prescribing a drug under a research protocol;

23 (9) Issued by medical practitioners who have received a waiver or a renewal thereof for a
24 specified period determined by the commissioner, not to exceed one year, from the requirement
25 to use electronic prescribing, pursuant to a process established in regulation by the commissioner,
26 in consultation with the commissioner, due to economic hardship, technological limitations that
27 are not reasonably within the control of the medical practitioner, or other exceptional circumstance
28 demonstrated by the medical practitioner; and

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

34 (b) A pharmacist who receives a written, oral, or faxed prescription is not required to verify
35 that the prescription properly falls under one of the exceptions from the requirement to
36 electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid
37 written, oral, or fax prescriptions that are consistent with current laws and regulations.

NOTE: The purpose of this bill is to require prescriptions to be made by electronic means, and providing exceptions.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.