

# **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.