

---

**Health Care & Wellness Committee**

---

**HB 2014**

**Brief Description:** Requiring tamper-resistant prescription pads.

**Sponsors:** Representatives Kelley, Ericksen, Green and Morrell.

**Brief Summary of 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:** 2/19/09

**Staff:** Kyle Gotchy (786-7119); Dave Knutson (786-7146)

**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.

### **E-Prescription Exceptions**

An e-prescription is a computer-generated prescription created by a patient's healthcare provider and sent directly to a pharmacy. 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 January 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, 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 electronic 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.