

# HOUSE BILL REPORT

## HB 2014

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### As Passed House:

March 4, 2009

**Title:** An act relating to tamper-resistant prescription pads.

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

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

### Brief History:

#### Committee Activity:

Health Care & Wellness: 2/19/09, 2/20/09 [DP].

#### Floor Activity

Passed House: 3/4/09, 95-0.

### 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.

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## HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 13 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

**Staff:** Kyle Gotchy (786-7119)

### 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

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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.

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 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:** Requested on February 20, 2009.

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

**Staff Summary of Public Testimony:**

(In support) This bill aspires to improve this state's consistency with what the federal government requires for Medicaid subscribers. The seal of approval is important to pharmacists because it provides visible assurance that the prescription is legitimate. This bill only needs one change – the implementation date should be moved back to July 2010 in order to accommodate education and printing requirements.

(Opposed) None.

**Persons Testifying:** Susie Tracy, Washington State Medical Association; Dedi Hitchens, Washington State Pharmacy Association; and Tamara Warnbe, Advanced Registered Nurses Practitioners United.

**Persons Signed In To Testify But Not Testifying:** None.