LB887
2020

LEGISLATURE OF NEBRASKA

ONE HUNDRED SIXTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 887

Introduced by Arch, 14.

Read first time January 09, 2020

Committee: Health and Human Services

A BILL FOR AN ACT relating to prescription drugs; to amend section 71-2478, Reissue Revised Statutes of Nebraska, and section 28-414.01, Revised Statutes Cumulative Supplement, 2018; to authorize pharmacists to adapt prescriptions as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

LB887
2020

Section 1. Section 28-414.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

28-414.01 (1) Except as otherwise provided in this section or when administered directly by a practitioner to an ultimate user, a controlled substance listed in Schedule III, IV, or V of section 28-405 shall not be dispensed without a written, oral, or electronic medical order. Such medical order is valid for six months after the date of issuance. Original prescription information for any controlled substance listed in Schedule III, IV, or V of section 28-405 may be transferred between pharmacies for purposes of refill dispensing pursuant to section 38-2871.

(2) A prescription for controlled substances listed in Schedule III, IV, or V of section 28-405 must contain the following information prior to being filled by a pharmacist or dispensing practitioner: (a) Patient's name and address, (b) name of the drug, device, or biological, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) number of refills, including pro re nata or PRN refills, not to exceed five refills within six months after the date of issuance, (i) prescribing practitioner's name and address, and (j) Drug Enforcement Administration number of the prescribing practitioner. If the prescription is a written paper prescription, the paper prescription must contain the prescribing practitioner's manual signature. If the prescription is an electronic prescription, the electronic prescription must contain all of the elements in subdivisions (a) through (j) of this subsection, must be digitally signed, and must be transmitted to and received by the pharmacy electronically to meet all of the requirements of 21 C.F.R. 1311, as the regulation existed on January 1, 2014, pertaining to electronic prescribing of controlled substances.

(3)(a) A pharmacist who is acting in good faith and exercising reasonable care and who has obtained patient consent may do the

LB887
2020

following:

(i) Change the quantity of a drug prescribed if:

(A) The prescribed quantity or package size is not commercially available; or

(B) The change in quantity is related to a change in dosage form;

(ii) Change the dosage form of the prescription if it is in the best interest of patient care and if the directions for use are also modified to equate to an equivalent amount of drug dispensed as prescribed;

(iii) Extend a one-time refill for the quantity prescribed in the most recent fill or a thirty-day supply, whichever is less, if in the professional judgment of the pharmacist the drug is essential to sustain the life of the patient or continue therapy for a chronic condition of the patient and failure to dispense the drug to the patient could result in harm to the health of the patient;

(iv) Dispense multiple months' supply of a drug if a prescription is written with sufficient refills; and

(v) Substitute any drug that has the same active ingredient and dose.

(b) A pharmacist who adapts a prescription in accordance with this subsection shall document the adaptation in the patient's pharmacy record.

(4) ~~(3)~~ A controlled substance listed in Schedule III, IV, or V of section 28-405 may be dispensed pursuant to a facsimile of a written, signed paper prescription. The facsimile of a written, signed paper prescription shall serve as the original written prescription for purposes of this subsection and shall be maintained in accordance with subsection (2) of section 28-414.03.

(5) ~~(4)~~ A prescription for a controlled substance listed in Schedule III, IV, or V of section 28-405 may be partially filled if (a) each partial filling is recorded in the same manner as a refilling, (b) the total quantity dispensed in all partial fillings does not exceed the

LB887
2020

total quantity prescribed, and (c) each partial filling is dispensed within six months after the prescription was issued.

Sec. 2. Section 71-2478, Reissue Revised Statutes of Nebraska, is amended to read:

71-2478 (1) Except as otherwise provided in this section or the Uniform Controlled Substances Act or except when administered directly by a practitioner to an ultimate user, a legend drug which is not a controlled substance shall not be dispensed without a written, oral, or electronic prescription. Such prescription shall be valid for twelve months after the date of issuance.

(2) A prescription for a legend drug which is not a controlled substance shall contain the following information prior to being filled by a pharmacist or practitioner who holds a pharmacy license under subdivision (1) of section 38-2850: (a) Patient's name, (b) name of the drug, device, or biological, (c) strength of the drug or biological, if applicable, (d) dosage form of the drug or biological, (e) quantity of the drug, device, or biological prescribed, (f) directions for use, (g) date of issuance, (h) number of authorized refills, including pro re nata or PRN refills, (i) prescribing practitioner's name, and (j) if the prescription is written, prescribing practitioner's signature. Prescriptions for controlled substances must meet the requirements of sections 28-414 and 28-414.01.

(3)(a) A pharmacist who is acting in good faith and exercising reasonable care and who has obtained patient consent may do the following:

(i) Change the quantity of a drug prescribed if:

(A) The prescribed quantity or package size is not commercially available; or

(B) The change in quantity is related to a change in dosage form;

(ii) Change the dosage form of the prescription if it is in the best interest of patient care and if the directions for use are also modified

LB887
2020

to equate to an equivalent amount of drug dispensed as prescribed;

(iii) Extend a one-time refill for the quantity prescribed in the most recent fill or a thirty-day supply, whichever is less, if in the professional judgment of the pharmacist the drug is essential to sustain the life of the patient or continue therapy for a chronic condition of the patient and failure to dispense the drug to the patient could result in harm to the health of the patient;

(iv) Dispense multiple months' supply of a drug if a prescription is written with sufficient refills; and

(v) Substitute any drug that has the same active ingredient and dose.

(b) A pharmacist who adapts a prescription in accordance with this subsection shall document the adaptation in the patient's pharmacy record.

(4) ~~(3)~~ A written, signed paper prescription may be transmitted to the pharmacy via facsimile which shall serve as the original written prescription. An electronic prescription may be electronically or digitally signed and transmitted to the pharmacy and may serve as the original prescription.

(5) ~~(4)~~ It shall be unlawful for any person knowingly or intentionally to possess or to acquire or obtain or to attempt to acquire or obtain, by means of misrepresentation, fraud, forgery, deception, or subterfuge, possession of any drug substance not classified as a controlled substance under the Uniform Controlled Substances Act which can only be lawfully dispensed, under federal statutes in effect on January 1, 2015, upon the written or oral prescription of a practitioner authorized to prescribe such substances.

Sec. 3. Original section 71-2478, Reissue Revised Statutes of Nebraska, and section 28-414.01, Revised Statutes Cumulative Supplement, 2018, are repealed.