

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE DRS85436-LN-338 (5/9)

Short Title: Prevent Prescription Drug Fraud. (Public)

Sponsors: Senator Berger of Franklin.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE HEALTH CARE PROVIDERS AUTHORIZED TO WRITE
2 SCHEDULE II AND ALL MEDICAID PRESCRIPTIONS FOR CERTAIN
3 CONTROLLED SUBSTANCES TO USE A STATE-PROVIDED SECURE
4 PRESCRIPTION PAD, TO REQUIRE PHARMACISTS TO FILL ONLY THOSE
5 SCHEDULE II AND ALL MEDICAID PRESCRIPTIONS WRITTEN ON
6 STATE-PROVIDED SECURE PRESCRIPTION PADS, AND TO APPROPRIATE
7 FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR
8 THE PURCHASE OF SOFTWARE AND SERVICES TO IMPLEMENT THIS
9 ACT.
10

11 Whereas, recent estimates by the Kaiser Family Foundation, the National
12 Healthcare Antifraud Association, and the Federal Bureau of Investigation (FBI)
13 indicate that North Carolina experiences between \$13,078,800 and \$43,596,000 per year
14 in prescription drug fraud; and

15 Whereas, New York and other states have recently implemented document
16 security programs as part of their efforts to reduce substantially prescription drug fraud;
17 and

18 Whereas, New York documented Medicaid savings of \$68,000,000 directly
19 tied to the secure issuance of Rx program during the first six months of the program;
20 and

21 Whereas, it is estimated that the savings resulting from the reduction in
22 prescription drug fraud will more than pay for the cost of implementing the document
23 security program within a reasonable period of time following initial implementation;
24 and

25 Whereas, the General Assembly enacted the Controlled Substances Reporting
26 Act to address overuse and misuse of certain controlled substances; and

1 Whereas, the use of secure documents is a way to reduce substantially the
2 forging and counterfeiting of prescriptions for controlled substances; Now, therefore,
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Effective January 1, 2009, Article 5 of Chapter 90 of the
5 General Statutes is amended by adding the following new section to read:

6 **"§ 90-106.1. Certain controlled substances prescribed only on State-certified**
7 **prescription pads.**

8 (a) All Medicaid prescriptions written for a Schedule II controlled substance
9 must be written by the practitioner only on a prescription pad or form certified by and
10 provided through the Department of Health and Human Services to the practitioner.
11 Pharmacists and other authorized dispensers of Schedule II controlled substances shall
12 not dispense a Schedule II controlled substance unless the prescription is written on a
13 State-certified prescription pad or form.

14 (b) All Medicaid prescriptions written for a Schedule III through V controlled
15 substance must be written by the practitioner only on a prescription pad or form
16 certified by and provided through the Department of Health and Human Services to the
17 practitioner. Pharmacists and other authorized dispensers of Schedule III through V
18 controlled substances shall not dispense a Schedule III through V controlled substance
19 unless the Medicaid prescription is written on a State-certified prescription pad or
20 form."

21 **SECTION 2.** Effective January 1, 2009, G.S. 90-106 reads as rewritten:

22 **"§ 90-106. Prescriptions and labeling.**

23 (a) Except when dispensed directly by a practitioner, other than a pharmacist, to
24 an ultimate user, no controlled substance included in Schedule II of this Article may be
25 dispensed without the written prescription of a ~~practitioner~~ practitioner on a prescription
26 pad or form, all Medicaid prescriptions must be issued on a prescription pad or form
27 certified and made available by the Department of Health and Human Services.

28 (b) In emergency situations, as defined by rule of the Commission, Schedule II
29 drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to
30 writing on a prescription pad or form, all Medicaid prescriptions must be reduced
31 promptly to writing on a prescription pad or form certified and made available by the
32 Department of Health and Human Services and filed by the dispensing agent.
33 Prescriptions shall be retained in conformity with the requirements of G.S. 90-104. No
34 prescription for a Schedule II substance may be refilled.

35 (c) Except when dispensed directly by a practitioner, other than a pharmacist, to
36 an ultimate user, no controlled substance included in Schedules III or IV, except
37 paregoric, U.S.P., as provided in G.S. 90-91(e)1, may be dispensed without a
38 prescription, and oral prescriptions shall be promptly reduced to writing and filed with
39 the dispensing agent. Such prescription may not be filled or refilled more than six
40 months after the date thereof or be refilled more than five times after the date of the
41 prescription. For Medicaid prescriptions, no controlled substance included in Schedule
42 III or IV, except paregoric, U.S.P., as provided in G.S. 90-91(e)1, may be dispensed
43 without a prescription written on a prescription pad or form certified and provided by
44 the Department of Health and Human Services, and oral prescriptions shall be promptly

1 reduced to writing on a prescription pad or form certified and provided by the
2 Department of Health and Human Services.

3 (d) No controlled substance included in Schedule V of this Article or paregoric,
4 U.S.P., may be distributed or dispensed other than for a medical purpose.

5 (e) No controlled substance included in Schedule VI of this Article may be
6 distributed or dispensed other than for scientific or research purposes by persons
7 registered under, or permitted by, this Article to engage in scientific or research
8 projects.

9 (f) No controlled substance shall be dispensed or distributed in this State unless
10 such substance shall be in a container clearly labeled in accord with regulations lawfully
11 adopted and published by the federal government or the Commission.

12 (g) When a copy of a prescription for a controlled substance under this Article is
13 given as required by G.S. 90-70, such copy shall be plainly marked: "Copy – for
14 information only." Copies of prescriptions for controlled substances shall not be filled
15 or refilled.

16 (h) A pharmacist dispensing a controlled substance under this Article shall enter
17 the date of dispensing on the prescription order pursuant to which such controlled
18 substance was dispensed.

19 (i) A manufacturer's sales representative may distribute a controlled substance as
20 a complimentary sample only upon the written request of a practitioner. Such request
21 must be made on each distribution and must contain the names and addresses of the
22 supplier and the requester and the name and quantity of the specific controlled
23 substance requested. The manufacturer shall maintain a record of each such request for
24 a period of two years."

25 **SECTION 3.(a)** The Department of Health and Human Services shall
26 contract with a vendor to develop and implement a document security program to
27 address and prevent prescription drug diversion and fraud in this State. The vendor
28 selected shall have past proven experience in implementing and managing a secure Rx
29 program with a state government. The selected vendor shall hold a current SAS70
30 certification. The selected vendor shall have at least one backup production facility for
31 the production of the secure Rx pads.

32 **SECTION 3.(b)** The document security program developed and
33 implemented in accordance with subsection (a) of this section shall be operated as part
34 of the North Carolina Controlled Substances Reporting Act and shall require that all
35 Medicaid prescriptions be written only on State-certified prescription drug forms
36 provided by the Department as part of this program, thereby preventing the use of lost
37 or stolen prescription forms as well as preventing the development and use of
38 counterfeit prescription forms to obtain controlled substances fraudulently.

39 **SECTION 4.** The Department of Health and Human Services, in
40 consultation with the Commission for Mental Health, Developmental Disabilities, and
41 Substance Abuse Services, may adopt rules to implement this act.

42 **SECTION 5.** There is appropriated from the General Fund to the
43 Department of Health and Human Services the sum of one hundred thousand dollars
44 (\$100,000) for the 2008-2009 fiscal year. These funds shall be used to implement and

1 administer a document security program to prevent the counterfeiting of prescriptions
2 for certain controlled substances as provided in this act. In developing the program, the
3 Department shall ensure that document security prescription pads, and laser and thermal
4 Rx forms are provided at a reasonable charge to practitioners authorized to write
5 prescriptions for Schedules II-V controlled substances. The Department shall make
6 available through the selected vendor both a secure Web-based and a paper/fax-based
7 order entry system to practitioners authorized to write prescriptions for Schedules II-V.
8 The Department shall also ensure that the vendor collects and submits only that data that
9 contains information on provider use of the State forms and no data pertaining to patient
10 identification, health status, or prescription particulars.

11 **SECTION 6.** This act becomes effective October 1, 2008.