GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007

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SENATE BILL 2076

Short Title:	Prevent Prescription Drug Fraud.	(Public)
Sponsors:	Senator Berger of Franklin.	
Referred to:	Appropriations/Base Budget.	

May 28, 2008

A BILL TO BE ENTITLED

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

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

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

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

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

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

Whereas, the use of secure documents is a way to reduce substantially the forging and counterfeiting of prescriptions for controlled substances; Now, therefore,

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. There is appropriated from the General Fund to the Department of Health and Human Services the sum of one hundred thousand dollars ($100,000) for the 2008-2009 fiscal year. These funds shall be used to implement and administer a document security program to prevent the counterfeiting of prescriptions for certain controlled substances as provided in this act. In developing the program, the

Department shall ensure that document security prescription pads, and laser and thermal Rx forms are provided at a reasonable charge to practitioners authorized to write prescriptions for Schedules II-V controlled substances. The Department shall make available through the selected vendor both a secure Web-based and a paper/fax-based order entry system to practitioners authorized to write prescriptions for Schedules II-V. The Department shall also ensure that the vendor collects and submits only that data that contains information on provider use of the State forms and no data pertaining to patient identification, health status, or prescription particulars.

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