

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2389

By Committee on Federal and State Affairs

3-6

1 AN ACT concerning controlled substances; relating to prescriptions
2 therefor; requiring electronic prescriptions for certain controlled
3 substances.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) ~~No prescriber shall prescribe any controlled substance~~
7 ~~in this state unless such prescription is by electronic prescription. This~~
8 ~~section shall not apply to any prescription that meets one of the following~~
9 ~~conditions, provided the prescriber documents such condition on the face~~
10 ~~of the prescription:~~

11 ~~(1) The prescription cannot be electronically transmitted due to a~~
12 ~~technological, electrical or other infrastructure failure as described in rules~~
13 ~~and regulations adopted by the board;~~

14 ~~(2) the prescription includes elements that are not supported by the~~
15 ~~standards for electronic prescriptions adopted by the board;~~

16 ~~(3) the United States food and drug administration requires the~~
17 ~~prescription to contain certain elements that are not able to be~~
18 ~~accomplished with an electronic prescription; or~~

19 ~~(4) the prescription is prescribed under a research protocol~~ Every
20 **prescription order issued for a controlled substance in schedules II-IV**
21 **that contains an opiate, as described in the uniform controlled**
22 **substances act, shall be transmitted electronically unless:**

23 **(1) Electronic prescription orders are not possible due to**
24 **technological or electronic system failures;**

25 **(2) electronic prescribing is not available to the prescriber due to**
26 **economic hardship or technological limitations that are not reasonably**
27 **within the control of the prescriber, or other exceptional**
28 **circumstances exist, as demonstrated by the prescriber;**

29 **(3) the prescription order is for a compounded preparation**
30 **containing two or more components or requires information that**
31 **makes electronic submission impractical, such as complicated or**
32 **lengthy instructions for use;**

33 **(4) the prescription order is issued by a licensed veterinarian;**

34 **(5) the prescriber reasonably determines that it would be**
35 **impractical for the patient to obtain the substances prescribed by**
36 **electronic prescription in a timely manner, and such delay would**

1 **adversely impact the patient's medical condition;**

2 **(6) the prescription order is issued pursuant to drug research or**
3 **drug therapy protocols;**

4 **(7) the prescription order is by a prescriber who issues 50 or**
5 **fewer prescription orders per year for controlled substances that**
6 **contain opiates; or**

7 **(8) the United States food and drug administration requires the**
8 **prescription order to contain elements that are not compatible or**
9 **possible with electronic prescriptions.**

10 (b) (1) A prescriber may request a waiver from the provisions of
11 subsection (a) for a period not to exceed six months if such prescriber
12 cannot comply with subsection (a) due to economic hardship,
13 technological limitations that reasonably are not within the prescriber's
14 control or other circumstance demonstrated by the prescriber. If a waiver is
15 granted by the board, the prescriber may request that such waiver be
16 renewed for a period not to exceed six months. Requests for a waiver or
17 renewal shall be submitted to the board in such form and manner as
18 prescribed by the board and shall include the reason for the request and
19 any other information required by the board.

20 (2) If a prescriber prescribes a controlled substance by non-electronic
21 prescription, such prescriber shall indicate the prescription is made
22 pursuant to a waiver granted pursuant to this section. A pharmacist shall
23 not be required to verify the validity of any waiver, either with the
24 prescriber or the board, but may do so in accordance with K.S.A. 65-1637,
25 and amendments thereto.

26 ~~(c) As used in this section, the term "controlled substance" means any~~
27 ~~drug, substance or immediate precursor included in the schedule~~
28 ~~designated in K.S.A. 65-4107, and amendments thereto, and any other~~
29 ~~narcotic drug.~~

30 ~~(d)~~—The provisions of this section shall be a part of and supplemental
31 to the pharmacy act of the state of Kansas.

32 Sec. 2. This act shall take effect and be in force from and after
33 ~~January 1, 2020~~ **July 1, 2021**, and its publication in the statute book.