

By: Representative Roberson

To: Drug Policy

HOUSE BILL NO. 1163

1 AN ACT TO AMEND SECTION 41-29-137, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT FROM AND AFTER JULY 1, 2020, CONTROLLED SUBSTANCE
3 PRESCRIPTIONS MUST BE ISSUED BY ELECTRONIC PRESCRIPTION FROM THE
4 PERSON ISSUING PRESCRIPTION TO A PHARMACY IN ACCORDANCE WITH
5 REGULATORY STANDARDS OF THE STATE BOARD OF PHARMACY, EXCEPT FOR
6 PRESCRIPTIONS MEETING CERTAIN FOLLOWING CRITERIA AND DOCUMENTED BY
7 THE PRESCRIBER ON THE FACE OF THE PRESCRIPTION; TO PROVIDE THAT
8 PHARMACISTS WHO RECEIVE WRITTEN, ORAL OR FAXED PRESCRIPTIONS ARE
9 NOT REQUIRED TO VERIFY THAT THE PRESCRIPTION PROPERLY FALLS UNDER
10 ONE OF THE EXCEPTIONS FROM THE REQUIREMENT TO ELECTRONICALLY
11 PRESCRIBE; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 41-29-137, Mississippi Code of 1972, is
14 amended as follows:

15 41-29-137. (a) (1) Except when dispensed directly by a
16 practitioner, other than a pharmacy, to an ultimate user, no
17 controlled substance in Schedule II, as set out in Section
18 41-29-115, may be dispensed without the written valid prescription
19 of a practitioner. A practitioner shall keep a record of all
20 controlled substances in Schedule I, II and III administered,
21 dispensed or professionally used by him otherwise than by
22 prescription.



23 (2) In emergency situations, as defined by rule of the
24 State Board of Pharmacy, Schedule II drugs may be dispensed upon
25 the oral valid prescription of a practitioner, reduced promptly to
26 writing and filed by the pharmacy. Prescriptions shall be
27 retained in conformity with the requirements of Section 41-29-133.
28 No prescription for a Schedule II substance may be refilled unless
29 renewed by prescription issued by a licensed medical doctor.

30 (b) Except when dispensed directly by a practitioner, other
31 than a pharmacy, to an ultimate user, a controlled substance
32 included in Schedule III or IV, as set out in Sections 41-29-117
33 and 41-29-119, shall not be dispensed without a written or oral
34 valid prescription of a practitioner. The prescription shall not
35 be filled or refilled more than six (6) months after the date
36 thereof or be refilled more than five (5) times, unless renewed by
37 the practitioner.

38 (c) A controlled substance included in Schedule V, as set
39 out in Section 41-29-121, shall not be distributed or dispensed
40 other than for a medical purpose.

41 (d) An optometrist certified to prescribe and use
42 therapeutic pharmaceutical agents under Sections 73-19-153 through
43 73-19-165 shall be authorized to prescribe oral analgesic
44 controlled substances in Schedule IV or V, as pertains to
45 treatment and management of eye disease by written prescription
46 only.



(e) Administration by injection of any pharmaceutical product authorized in this section is expressly prohibited except when dispensed directly by a practitioner other than a pharmacy.

(f) (1) For the purposes of this article, Title 73, Chapter 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it pertains to prescriptions for controlled substances, a "valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by:

(A) A practitioner who has conducted at least one (1) in-person medical evaluation of the patient; or

(B) A covering practitioner.

(2) (A) "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

(B) "Covering practitioner" means a practitioner who conducts a medical evaluation other than an in-person medical evaluation at the request of a practitioner who has conducted at least one (1) in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine within the previous twenty-four (24) months and who is temporarily unavailable to conduct the evaluation of the patient.

(3) A prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire is not a valid prescription.



(4) Nothing in this subsection (* * *f) shall apply to:

(A) A prescription issued by a practitioner engaged in the practice of telemedicine as authorized under state or federal law; or

(B) The dispensing or selling of a controlled substance pursuant to practices as determined by the United States Attorney General by regulation.

(g) (1) From and after July 1, 2020, no person shall issue any controlled substance prescription in this state unless the prescription is made by electronic prescription from the person issuing the controlled substance prescription to a pharmacy in accordance with regulatory standards of the State Board of Pharmacy, except for prescriptions meeting any of the following criteria and documented by the prescriber on the face of the prescription:

(A) Issued by veterinarians;

(B) Issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as provided in regulations of the State Board of Pharmacy;

(C) Issued by a practitioner to be dispensed by a pharmacy located outside the state, as provided in regulations of the State Board of Pharmacy;



96 (D) Issued containing elements that are not
97 supported by the most recently implemented version of the National
98 Council for Prescription Drug Programs Prescriber/Pharmacist
99 Interface SCRIPT Standard;

100 (E) Issued by a practitioner for a drug that the
101 federal Food and Drug Administration (FDA) requires the
102 prescription to contain certain elements that are not able to be
103 accomplished with electronic prescribing such as, but not limited
104 to, a drug with Risk Evaluation and Mitigation Strategies that
105 include Elements to Assure Safe Use;

106 (F) Issued by a practitioner prescribing a drug
107 under a research protocol; or

108 (G) Issued by practitioners who have received a
109 waiver or a renewal thereof for a specified period determined by
110 the State Board of Pharmacy, not to exceed six (6) months, from
111 the requirement to use electronic prescribing, pursuant to a
112 process established in regulations of the State Board of Pharmacy,
113 due to economic hardship, technological limitations that are not
114 reasonably within the control of the practitioner, or other
115 exceptional circumstance demonstrated by the practitioner.

116 (2) A pharmacist who receives a written, oral or faxed
117 prescription is not required to verify that the prescription
118 properly falls under one of the exceptions from the requirement to
119 electronically prescribe in paragraph (1) of this subsection.

120 Pharmacists may continue to dispense medications from otherwise



121 valid written, oral or fax prescriptions that are consistent with
122 current laws and regulations.

123 **SECTION 2.** This act shall take effect and be in force from
124 and after July 1, 2020.

