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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 193  
134<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Reported by Health Health

**Primary Sponsors:** Reps. Cutrona and Pavliga

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### SUMMARY

- Generally limits pharmacist dispensing of schedule II controlled substances to those prescribed electronically, rather than in writing or electronically as under current law.
- Establishes the requirement that a prescriber issue an electronic prescription when prescribing a schedule II controlled substance, but also allows for the issuance of a written prescription in specified circumstances.

### DETAILED ANALYSIS

#### Pharmacist dispensing of schedule II controlled substances

The bill limits pharmacist dispensing of schedule II controlled substances to those prescribed electronically, with specified exceptions.<sup>1</sup> At present, a pharmacist may dispense controlled substances to any person upon a prescription for that person issued by a prescriber while acting in the course of his or her professional practice.<sup>2</sup> In the case of a schedule II controlled substance, current law authorizes a pharmacist to dispense the drug only upon a written or electronic prescription, except in emergency situations.<sup>3</sup>

#### Exceptions to dispensing only upon electronic prescriptions

The bill maintains a current law provision allowing – in emergency situations – for schedule II controlled substances to be dispensed upon oral prescriptions when the conditions established in federal law are satisfied.<sup>4</sup> These include limiting the pharmacist to dispensing an

<sup>1</sup> R.C. 3719.05.

<sup>2</sup> R.C. 3719.05(A) and 3719.06.

<sup>3</sup> R.C. 3719.05(A)(3).

<sup>4</sup> R.C. 3719.05(A)(3)(b).

amount adequate to treat the patient for the duration of the emergency period only and requiring the prescriber to deliver a prescription to the pharmacist within seven days after authorizing the emergency prescription.<sup>5</sup>

The bill also authorizes a pharmacist to dispense a schedule II controlled substance upon a written prescription rather than an electronic one if either of the following is the case:

- A temporary technical, electrical, or broadband failure prevents dispensing upon an electronic prescription;
- The prescriber issued the written prescription under specified circumstances (See **“Prescriber issuance of schedule II controlled substance prescriptions,”** below).<sup>6</sup>

### **Safe harbor provisions**

Under the bill, a pharmacist who receives a faxed, oral, or written prescription for a schedule II controlled substance is not required to verify that the prescription was issued under an exception to the bill’s requirement that a prescriber issue the prescription electronically.<sup>7</sup>

### **Pharmacist dispensing of other drugs**

The bill specifies that a pharmacist may continue to dispense any other drug upon an otherwise valid faxed, oral, or written prescription that is consistent with state and federal statutes, rules, and regulations.<sup>8</sup>

## **Prescriber issuance of schedule II controlled substance prescriptions**

In the case of a prescriber who is authorized to prescribe schedule II controlled substances, the bill establishes the requirement that the prescriber issue an electronic prescription when prescribing a schedule II controlled substance, with specified exceptions.<sup>9</sup>

### **Exceptions to issuing only electronic prescriptions**

Under the bill, a prescriber may issue a written rather than an electronic prescription for a schedule II controlled substance only in the following circumstances:

- In the event of a temporary technical, electrical, or broadband failure;
- When the prescription is issued for a nursing home resident or hospice care patient;

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<sup>5</sup> See 21 Code of Federal Regulations 1306.11, available [here](#).

<sup>6</sup> R.C. 3719.05(A)(3)(c).

<sup>7</sup> R.C. 3719.05(A)(3)(d).

<sup>8</sup> R.C. 3719.05(A)(3)(d).

<sup>9</sup> R.C. 3719.06(C).

- When the prescriber is employed by or under contract with the same entity that operates the pharmacy;
- When the prescriber determines that an electronic prescription cannot be issued in a timely manner and the patient’s medical condition is at risk;
- When the prescription is issued from a health care facility, which may include an emergency department, and the prescriber reasonably determines that an electronic prescription would be impractical for the patient or would cause delay that may adversely impact the patient’s medical condition;
- When the prescriber issues per year not more than 50 prescriptions for schedule II controlled substances.<sup>10</sup>

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## HISTORY

Action	Date
Introduced	03-09-21
Reported, H. Health	06-15-21

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H0193-RH-134/ar

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<sup>10</sup> R. C. 3719.06(C).