

Committee Print

[SHOWING THE TEXT OF H.R. 3528/H3528-AMD-SC_01 AS FORWARDED BY
THE SUBCOMMITTEE ON HEALTH ON APRIL 25, 2018]

115TH CONGRESS
1ST SESSION

H. R. 3528

To amend title XVIII of the Social Security Act to require e-prescribing for coverage under part D of the Medicare program of prescription drugs that are controlled substances.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Ms. CLARK of Massachusetts (for herself and Mr. MULLIN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to require e-prescribing for coverage under part D of the Medicare program of prescription drugs that are controlled substances.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Every Prescription
3 Conveyed Securely Act”.

4 **SEC. 2. REQUIRING E-PRESCRIBING FOR COVERAGE OF**
5 **COVERED PART D CONTROLLED SUB-**
6 **STANCES.**

7 (a) IN GENERAL.—Section 1860D–4(e) of the Social
8 Security Act (42 U.S.C. 1395w–104(e)) is amended by
9 adding at the end the following:

10 “(7) REQUIREMENT OF E-PRESCRIBING FOR
11 CONTROLLED SUBSTANCES.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), a prescription for a covered part D
14 drug under a prescription drug plan (or under
15 an MA–PD plan) for a schedule II, III, IV, or
16 V controlled substance shall be transmitted by
17 a health care practitioner electronically in ac-
18 cordance with an electronic prescription drug
19 program that meets the requirements of para-
20 graph (2).

21 “(B) EXCEPTION FOR CERTAIN CIR-
22 CUMSTANCES.—The Secretary shall, pursuant
23 to rulemaking, specify circumstances with re-
24 spect to which the Secretary may waive the re-
25 quirement under subparagraph (A), with re-

1 spect to a covered part D drug, including in the
2 case of—

3 “(i) a prescription issued when the
4 prescriber and dispenser are the same enti-
5 ty;

6 “(ii) a prescription issued that cannot
7 be transmitted electronically due to the
8 constraints of the most recently imple-
9 mented version of the National Council for
10 Prescription Drug Programs SCRIPT
11 Standard;

12 “(iii) a prescription issued by a practi-
13 tioner who has received a waiver or a re-
14 newal thereof for a specified period deter-
15 mined by the Secretary, not to exceed one
16 year, from the requirement to use elec-
17 tronic prescribing, pursuant to a process
18 established by regulation by the Secretary,
19 due to demonstrated economic hardship,
20 technological limitations that are not rea-
21 sonably within the control of the practi-
22 tioner, or other exceptional circumstance
23 demonstrated by the practitioner;

24 “(iv) a prescription issued by a practi-
25 tioner under circumstances in which, not-

1 withstanding the practitioner’s ability to
2 make an electronic prescription as required
3 by this subsection, such practitioner rea-
4 sonably determines that it would be im-
5 practical for the individual involved to ob-
6 tain substances prescribed by electronic
7 prescription in a timely manner, and such
8 delay would adversely impact the individ-
9 ual’s medical condition involved;

10 “(v) a prescription issued by a practi-
11 tioner allowing for the dispensing of a non-
12 patient specific prescription pursuant to a
13 standing order, approved protocol for drug
14 therapy, collaborative drug management,
15 or comprehensive medication management,
16 in response to a public health emergency,
17 or other circumstances where the practi-
18 tioner may issue a non-patient specific pre-
19 scription;

20 “(vi) a prescription issued by a practi-
21 tioner prescribing a drug under a research
22 protocol;

23 “(vii) a prescription issued by a prac-
24 titioner for a drug for which the Food and
25 Drug Administration requires the prescrip-

1 tion to contain certain elements that are
2 not able to be accomplished with electronic
3 prescribing such as, a drug with risk eval-
4 uation and mitigation strategies that in-
5 clude elements to assure safe use; and

6 “(viii) a prescription issued by a prac-
7 titioner for an individual who—

8 “(I) receives hospice care under
9 this title; or

10 “(II) is a resident of a skilled
11 nursing facility (as defined in section
12 1819(a)), or a medical institution or
13 nursing facility for which payment is
14 made for an institutionalized indi-
15 vidual under section 1902(q)(1)(B),
16 for which frequently abused drugs are
17 dispensed for residents through a con-
18 tract with a single pharmacy, as de-
19 termined by the Secretary in accord-
20 ance with this paragraph.

21 “(C) DISPENSING.—Nothing in this para-
22 graph shall be construed as requiring a sponsor
23 of a prescription drug plan under this part, MA
24 organization offering an MA–PD plan under
25 part C, or a pharmacist to verify that a practi-

1 tioner, with respect to a prescription for a cov-
2 ered part D drug, has a waiver (or is otherwise
3 exempt) under subparagraph (B) from the re-
4 quirement under subparagraph (A). Nothing in
5 this paragraph shall be construed as affecting
6 the ability of the plan to cover or the phar-
7 macists' ability to continue to dispense covered
8 part D drugs from otherwise valid written, oral
9 or fax prescriptions that are consistent with
10 laws and regulations. Nothing in this paragraph
11 shall be construed as affecting the ability of the
12 beneficiary involved to designate a particular
13 pharmacy to dispense a prescribed drug to the
14 extent consistent with the requirements under
15 subsection (b)(1) and under this paragraph.

16 “(D) ENFORCEMENT.—The Secretary
17 shall, pursuant to rulemaking, have authority to
18 enforce and specify appropriate penalties for
19 non-compliance with the requirement under
20 subparagraph (A).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to coverage of drugs prescribed
23 on or after January 1, 2020.