

# HB4874



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

**HB4874**

Introduced 2/7/2024, by Rep. Dagmara Avelar

### SYNOPSIS AS INTRODUCED:

720 ILCS 570/311.6

Amends the Illinois Controlled Substances Act. Provides that a pharmacist may not refuse to fill a valid prescription solely because it is not prescribed electronically. Provides that a compliance action with respect to this provision initiated by the Department of Financial and Professional Regulation prior to December 31, 2030 is limited to a non-disciplinary warning letter or citation, unless the prescriber fails to abide by the initial non-disciplinary warning letter or citation, has acted in bad faith, or a pattern of practice in violation of this Section occurs. Effective immediately.

LRB103 37508 RLC 69489 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Controlled Substances Act is  
5 amended by changing Section 311.6 as follows:

6 (720 ILCS 570/311.6)

7 Sec. 311.6. Opioid prescriptions.

8 (a) Notwithstanding any other provision of law, a  
9 prescription for a substance classified in Schedule II, III,  
10 IV, or V must be sent electronically, in accordance with  
11 Section 316. Prescriptions sent in accordance with this  
12 subsection (a) must be accepted by the dispenser in electronic  
13 format.

14 (b) Beginning on the effective date of this amendatory Act  
15 of the 103rd General Assembly until December 31, 2028,  
16 notwithstanding any other provision of this Section or any  
17 other provision of law, a prescriber shall not be required to  
18 issue prescriptions electronically if he or she certifies to  
19 the Department of Financial and Professional Regulation that  
20 he or she will not issue more than 150 prescriptions during a  
21 12-month period. Prescriptions in both oral and written form  
22 for controlled substances shall be included in determining  
23 whether the prescriber will reach the limit of 150

1 prescriptions. Beginning January 1, 2029, notwithstanding any  
2 other provision of this Section or any other provision of law,  
3 a prescriber shall not be required to issue prescriptions  
4 electronically if he or she certifies to the Department of  
5 Financial and Professional Regulation that he or she will not  
6 issue more than 50 prescriptions during a 12-month period.  
7 Prescriptions in both oral and written form for controlled  
8 substances shall be included in determining whether the  
9 prescriber will reach the limit of 50 prescriptions.

10 (b-5) Notwithstanding any other provision of this Section  
11 or any other provision of law, a prescriber shall not be  
12 required to issue prescriptions electronically under the  
13 following circumstances:

14 (1) prior to January 1, 2026, the prescriber  
15 demonstrates financial difficulties in buying or managing  
16 an electronic prescription option, whether it is an  
17 electronic health record or some other electronic  
18 prescribing product;

19 (2) on and after January 1, 2026, the prescriber  
20 provides proof of a waiver from the Centers for Medicare  
21 and Medicaid Services for the Electronic Prescribing for  
22 Controlled Substances Program due to demonstrated economic  
23 hardship for the previous compliance year;

24 (3) there is a temporary technological or electrical  
25 failure that prevents an electronic prescription from  
26 being issued;

1           (4) the prescription is for a drug that the  
2 practitioner reasonably determines would be impractical  
3 for the patient to obtain in a timely manner if prescribed  
4 by an electronic data transmission prescription and the  
5 delay would adversely impact the patient's medical  
6 condition;

7           (5) the prescription is for an individual who:

8                 (A) resides in a nursing or assisted living  
9 facility;

10                (B) is receiving hospice or palliative care;

11                (C) is receiving care at an outpatient renal  
12 dialysis facility and the prescription is related to  
13 the care provided;

14                (D) is receiving care through the United States  
15 Department of Veterans Affairs; or

16                (E) is incarcerated in a state, detained, or  
17 confined in a correctional facility;

18           (6) the prescription prescribes a drug under a  
19 research protocol;

20           (7) the prescription is a non-patient specific  
21 prescription dispensed under a standing order, approved  
22 protocol for drug therapy, collaborative drug management,  
23 or comprehensive medication management, or in response to  
24 a public health emergency or other circumstance in which  
25 the practitioner may issue a non-patient specific  
26 prescription;

1           (8) the prescription is issued when the prescriber and  
2           dispenser are the same entity;

3           (9) the prescription is issued for a compound  
4           prescription containing 2 or more compounds; or

5           (10) the prescription is issued by a licensed  
6           veterinarian within 2 years after the effective date of  
7           this amendatory Act of the 103rd General Assembly.

8           (c) The Department of Financial and Professional  
9           Regulation may adopt rules for the administration of this  
10          Section to the requirements under this Section that the  
11          Department of Financial and Professional Regulation may deem  
12          appropriate.

13          (d) Any prescriber who makes a good faith effort to  
14          prescribe electronically, but for reasons not within the  
15          prescriber's control is unable to prescribe electronically,  
16          may be exempt from any disciplinary action.

17          (e) Any pharmacist who dispenses in good faith based upon  
18          a valid prescription that is not prescribed electronically may  
19          be exempt from any disciplinary action. A pharmacist is not  
20          required to ensure or responsible for ensuring the  
21          prescriber's compliance under subsection (b), nor may any  
22          other entity or organization require a pharmacist to ensure  
23          the prescriber's compliance with that subsection. A pharmacist  
24          may not refuse to fill a valid prescription solely because it  
25          is not prescribed electronically.

26          (f) It shall be a violation of this Section for any

1 prescriber or dispenser to adopt a policy contrary to this  
2 Section.

3 (g) A compliance action with respect to this Section  
4 initiated by the Department of Financial and Professional  
5 Regulation prior to December 31, 2030 is limited to a  
6 non-disciplinary warning letter or citation, unless the  
7 prescriber fails to abide by the initial non-disciplinary  
8 warning letter or citation, has acted in bad faith, or a  
9 pattern of practice in violation of this Section occurs.

10 (Source: P.A. 102-490, eff. 1-1-24 (See Section 55 of P.A.  
11 102-1109 for effective date of P.A. 102-490); 103-425, eff.  
12 1-1-24; 103-563, eff. 11-17-23.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.