SENATE, No. 1920

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)

SYNOPSIS

Establishes requirements for electronic health records systems that include programs promoting specific pharmaceutical products.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning electronic health records systems and amending P.L.2003, c.280.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 19 of P.L.2003, c.280 (C.45:14-58) is amended to read as follows:

19. a. Nothing contained in this act shall preclude a practitioner from transmitting to a pharmacist by telephone or electronic means a prescription, as otherwise authorized by law, if that practitioner provides the practitioner's Drug Enforcement Administration registration number and the practitioner's license number, or any other federally identified number, as appropriate, to the pharmacist at the time the practitioner transmits the prescription.

b. Except as may be otherwise permitted by law, no prescription for any Schedule II controlled dangerous substance shall be given or transmitted to pharmacists, in any other manner, than in writing signed by the practitioner giving or transmitting the same, nor shall such prescription be renewed or refilled. The requirement in this subsection that a prescription for any controlled dangerous substance be given or transmitted to pharmacists in writing signed by the practitioner shall not apply to a prescription for a Schedule II drug if that prescription is transmitted or prepared in compliance with federal and State regulations.

c. (1) Each vendor that sells, leases, or licenses for use an electronic health records system that is used to electronically transmit prescriptions in this State on the effective date of P.L.2017, c.338 shall ensure that the system meets all federal requirements for the system to accept, process, and transmit prescriptions for Schedule II controlled dangerous substances no later than one year after the effective date of P.L.2017, c.338 as a condition of continuing to sell, lease, or license for use the electronic health records system in this State. Each vendor that commences selling, leasing, or licensing for use an electronic health records system that is used to electronically transmit prescriptions in this State after the effective date of P.L.2017, c.338 shall ensure that the system meets all federal requirements for the system to accept, process, and transmit prescriptions for Schedule II controlled dangerous substances as a condition of selling, leasing, or licensing for use the electronic health records system in this State.

(2) The requirements of paragraph (1) of this subsection shall not apply to a telemedicine or telehealth organization, as that term is defined in section 1 of P.L.2017, c.117 (C.45:1-61), that exclusively provides telehealth and telemedicine services.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

d. (1) If an electronic health records system includes any program or feature that promotes the issuance of prescriptions for a particular pharmaceutical product, including any drug, device, or biological product, the vendor that sells, leases, or licenses for use the electronic health records system shall ensure that the system incorporates a pop-up box or similar notification feature that:

(a) advises health care practitioners using the electronic health records system that the system includes a program or feature that promotes the issuance of prescriptions for a particular pharmaceutical product; and

(b) identifies each pharmaceutical product being promoted using the system.

(2) A health care practitioner using an electronic health records system that includes a program or feature that promotes the issuance of prescriptions for a particular pharmaceutical product shall advise each patient for whom the electronic health records system recommends the issuance of a prescription for a promoted pharmaceutical product that:

(a) the electronic health records system is promoting the issuance of prescriptions for a particular pharmaceutical product; and

(b) offer to discuss therapeutically-equivalent treatment options with the patient, including non-pharmaceutical treatment options.

(cf: P.L.2017, c.338, s.1)

2. This act shall take effect 60 days after the date of enactment.

STATEMENT

This bill establishes certain requirements for electronic health records (EHR) systems that include a program or feature that promotes the issuance of prescriptions for specific pharmaceutical products. Specifically, the vendor of an EHR system that includes a promotional program or feature is to include in the system a pop-up box or other notification feature that advises health care professionals that the system promotes prescriptions for specific pharmaceutical products and that lists each of the products promoted by the EHR system.

Additionally, when an EHR system that includes a promotional program recommends a promoted pharmaceutical product for a patient, the patient's health care provider will be required to notify the patient that the system is promoting the product and offer to discuss therapeutically-equivalent treatment options with the patient, including non-pharmaceutical treatment options.

A recent federal investigation uncovered a secret agreement between a pharmaceutical manufacturer and an EHR vendor, pursuant to which the EHR vendor wrote a program into its EHR

system promoting the pharmaceutical manufacturer's opioid products. This agreement, which was reportedly intended to increase the number and length of prescriptions issued for the manufacturer's opioid products, likely contributed to the opioid crisis by expanding the number of patients prescribed opioid drugs and increasing the duration of prescriptions issued for opioid drugs, thereby exacerbating the risk that patients would develop an opioid dependency. It is the sponsor's intent that both health care providers and patients be made aware when an EHR system is attempting to influence prescribing practices in a way that may undermine or jeopardize the quality of care provided to patients for the purposes of maximizing profits for drug manufacturers.