



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB3197

Introduced 2/1/2012, by Sen. Iris Y. Martinez

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Electronic Prescribing Act. Provides that beginning August 1, 2014, a drug prior authorization request must be accessible to a health care provider with the provider's electronic prescribing software system and must be accepted electronically, through a secure electronic transmission, by the payer, by the insurance company, or by the pharmacy benefit manager responsible for implementing or adjudicating or for implementing and adjudicating the authorization or denial of the prior authorization request. Provides that beginning August 1, 2014, electronic transmission devices used to communicate a prescription to a pharmacist may not use any means or permit any other person to use any means, including advertising, commercial messaging, and pop-up advertisements, to influence or attempt to influence through economic incentives the prescribing decision of a prescribing practitioner at the point of care. Creates the Electronic Prescribing Study Committee to study certain aspects of optimizing electronic prescribing systems, including, how to ensure that the prescribing decisions of practitioners at the point of care are focused on patient safety and quality outcomes, and that attempts to influence those decisions, through economic incentives or otherwise, are kept to a minimum. Contains provisions concerning Committee policies; Committee hearings; the Committee's composition; compensation; and reporting requirements. Effective July 1, 2012.

LRB097 15551 KTG 60688 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 1. Short title. This Act may be cited as the  
5 Electronic Prescribing Act.

6 Section 5. Drug prior authorization requests. Beginning  
7 August 1, 2014, a drug prior authorization request must be  
8 accessible to a health care provider with the provider's  
9 electronic prescribing software system and must be accepted  
10 electronically, through a secure electronic transmission, by  
11 the payer, by the insurance company, or by the pharmacy benefit  
12 manager responsible for implementing or adjudicating or for  
13 implementing and adjudicating the authorization or denial of  
14 the prior authorization request. For purposes of this Section,  
15 a facsimile is not an electronic transmission.

16 Section 10. Electronic transmission devices. Beginning  
17 August 1, 2014, electronic transmission devices used to  
18 communicate a prescription to a pharmacist may not use any  
19 means or permit any other person to use any means, including  
20 advertising, commercial messaging, and pop-up advertisements,  
21 to influence or attempt to influence through economic  
22 incentives the prescribing decision of a prescribing

1 practitioner at the point of care. Such means may not be  
2 triggered by or be in specific response to the input,  
3 selection, or act of a prescribing practitioner or the  
4 prescribing practitioner's staff in prescribing a certain  
5 pharmaceutical or directing a patient to a certain pharmacy.  
6 Any electronic communication sent to the prescriber, including  
7 advertising, commercial messaging, or pop-up advertisements,  
8 must be consistent with the product label, supported by  
9 scientific evidence, and meet the federal Food and Drug  
10 Administration requirements for advertising pharmaceutical  
11 products.

12 Section 15. Electronic prescribing software. Electronic  
13 prescribing software may show information regarding a payer's  
14 formulary if the software is not designed to preclude or make  
15 more difficult the act of a prescribing practitioner or patient  
16 selecting any particular pharmacy or pharmaceutical.

17 Section 20. Standardized drug prior authorization request  
18 transactions; outline. Within 6 months after the effective date  
19 of this Act, the Electronic Prescribing Study Committee created  
20 in Section 25 of this Act shall establish an outline on how  
21 best to standardize drug prior authorization request  
22 transactions between providers and the payers, insurance  
23 companies, and pharmacy benefit managers responsible for  
24 adjudicating the authorization or denial of the prescription

1 request. The outline must be designed with the goal of  
2 maximizing administrative simplification and efficiency in  
3 preparation for electronic transmissions and alignment with  
4 standards that are or will potentially be used nationally. By  
5 June 30, 2013, the Electronic Prescribing Study Committee shall  
6 provide a report to the President of the Senate, the Speaker of  
7 the House of Representatives, the Secretary of the Senate, the  
8 Clerk of the House, the Governor, and the Director of the State  
9 Library regarding the outline on how best to standardize drug  
10 prior authorization request transactions.

11 Section 25. Electronic Prescribing Study Committee. The  
12 Electronic Prescribing Study Committee is created to study the  
13 following aspects of optimizing electronic prescribing  
14 systems: (i) how best to develop a neutral platform for the  
15 electronic transmission of health data including, but not  
16 limited to, medication history, formulary status, and other  
17 patient information health professionals typically access when  
18 prescribing medication and other interventions; (ii) how to  
19 ensure that the prescribing decisions of practitioners at the  
20 point of care are focused on patient safety and quality  
21 outcomes, and that attempts to influence those decisions,  
22 through economic incentives or otherwise, are kept to a  
23 minimum; (iii) how to ensure that messages in electronic  
24 prescribing systems are substantially supported by scientific  
25 evidence, are accurate, up-to-date, and fact-based, and

1 include a fair and balanced presentation of risks and benefits  
2 and support for better clinical decision-making, such as alerts  
3 to adverse events and access to formulary information; and (iv)  
4 how to establish a process to provide electronic prior  
5 authorization request and approval transactions between  
6 providers and group purchasers.

7 Section 30. Committee policies. The Committee must develop  
8 and recommend policies that (i) seek to limit marketing in  
9 electronic health record systems, (ii) seek to encourage the  
10 provision of evidence-based information at the point of care,  
11 and (iii) standardize prior authorization to maximize  
12 administrative simplification and efficiency. The Committee  
13 shall recommend a universal prior authorization form to be made  
14 available for electronic use.

15 Section 35. Hearings. The Committee may meet and hold  
16 hearings at the places it designates during the sessions or  
17 recesses of the General Assembly, and the Committee shall  
18 report its findings and any recommendations for proposed  
19 legislation to the President of the Senate, the Speaker of the  
20 House of Representatives, the Secretary of the Senate, the  
21 Clerk of the House, the Governor, and the Director of the State  
22 Library on or before January 1, 2013.

23 Section 40. Committee composition. The Committee shall

1 consist of the following members: the Governor's Senior Health  
2 Policy Advisor and Chief Information Officer; 2 members of the  
3 Senate, one appointed by the President of the Senate and the  
4 other by the Minority Leader of the Senate; 2 members of the  
5 House of Representatives, one appointed by the Speaker of the  
6 House of Representatives and the other by the House Minority  
7 Leader; a representative of the Department of Healthcare and  
8 Family Services designated by the Director; a representative of  
9 the Pharmaceutical Research and Manufacturers of America  
10 (PhRMA) appointed by the Governor; a representative of the  
11 Illinois Hospital Association appointed by the Governor; a  
12 representative of the Illinois Medical Society appointed by the  
13 Governor; a representative of the Illinois Pharmacy  
14 Association appointed by the Governor; and 2 patient advocates  
15 appointed by the Governor.

16 Section 45. Compensation; staff support. The members of the  
17 Committee shall serve without compensation, but shall be  
18 reimbursed for necessary expenses incurred in the performance  
19 of their duties and within the limits of funds available to the  
20 Committee. The Committee shall be entitled to call to its  
21 assistance and avail itself of the services of the employees of  
22 any State, county, or municipal department, board, bureau,  
23 commission, or agency as it may require and as may be available  
24 to it for its purposes. The Department of Healthcare and Family  
25 Services shall provide staff support to the Committee.

1           Section 99. Effective date. This Act takes effect July 1,  
2    2012.