Electronic Transmittal of Prescriptions

1. **What is an electronic prescription?**
   
   *Answer:* An electronic prescription is created, recorded or stored by electronic means; issued and validated with an electronic signature; and transmitted by electronic means directly from the prescriber to a pharmacist.

2. **Are there any special requirements for electronic prescriptions?**
   
   *Answer: YES.* Prescribers and pharmacists must have a secure (encrypted or encoded) system for electronic transmission from computer to computer. Any equipment used for electronic transmission of prescriptions must be so located to ensure the security and confidentiality of the transmission. Procedures for electronic transmission of prescriptions should be documented. Electronically transmitted prescriptions must:
   
   a. Contain the electronic signature of the prescriber
   b. Shall be electronically encrypted to prevent unauthorized access, alteration or use
   c. Have the signature or initials of the pharmacist or pharmacy intern entered into the pharmacy's records to indicate acceptance of the prescription by the pharmacy.

   The information retained electronically should be capable of being reconstructed in the event of a computer malfunction or accident resulting in the destruction of data.

   Other electronic transfer requirements are outlined in the following questions and answers.

3. **May pharmacists and pharmacy interns sign and initial prescriptions and other required records in an electronic format?**
   
   *Answer: YES.* All records required under laws, rules and regulations administered by the Education Department may be maintained in an electronic format. At this time, certain records for controlled substances and for programs such as Medicare may have additional, hard-copy requirements. Pharmacists should check with these programs directly for specific requirements.

4. **Can an agent or employee of the prescriber electronically create and electronically transmit an electronic prescription to the pharmacy?**
   
   *Answer: NO.* Education law 6802 and Regulations of the Commissioner of Education make no provision for the delegation of transmission of electronic prescriptions to an agent. Further, federal and State regulations for prescribing of controlled substances **explicitly** prohibit such delegation.

5. **Can a pharmacy accept an electronic prescription that contains an electronic signature and an electronic DAW?**
   
   *Answer: YES.* Education Law 6810 allows the prescriber to electronically sign and insert an electronic direction to dispense the drug as written.

6. **Are pharmacists/prescribers obligated to transmit prescriptions electronically?**
   
   *Answer: Not yet.* However, recently passed legislation known as the I-STOP bill, will require all prescriptions to be transmitted in electronic format, except for emergency situations and other limited circumstances, by no later than March 27, 2015.
7. **Is a facsimile (fax) prescription considered an electronic prescription?**

   *Answer: NO.* Education law section 6802 specifically excludes facsimiles from the definition of an electronic prescription AND requires a manual signature.

8. **What are the requirements for a fax prescription?**

   *Answer:* As noted, a facsimile is **not** considered an electronic prescription and must meet the following criteria:
   
   a. Must be an original hard copy prescription transmitted by facsimile from the prescriber to the pharmacy
   b. Must be manually signed by the prescriber
   c. And if issued in NY must be on an official New York State prescription form.

9. **Can a prescriber direct a prescription to a particular pharmacy?**

   *Answer: NO.* Patients have the right to choose the pharmacy where they wish to have their prescription(s) filled. Practitioners who exert undue influence on a patient (known as steering) to have a prescription filled at any one pharmacy over another whether electronically transmitted or via a written or oral prescription are subject to charges of unprofessional conduct.

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**Pharmacist/Pharmacy Requirements**

10. **Is a pharmacist responsible for determining the authenticity of an electronic prescription?**

    *Answer: YES.* Pharmacists are responsible for assuring the validity of all written, oral and electronic prescriptions. There are a number of ways to do this, such as using new software programs that require a password; personal identification numbers (PINs) or other authentication of the prescriber. These programs also notify the pharmacist if an encrypted or encoded electronic message or "envelope" has been tampered with or altered. Prescribers and pharmacists must use compatible programs. If a pharmacist has reason to question the authenticity of an electronic prescription, the pharmacist's professional judgment must prevail. If verification is not possible, the pharmacist can choose not to accept the electronic prescription and can request transmission by another means from the prescriber.

11. **Can a pharmacist continue to accept a facsimile/faxed prescription for a non-controlled substance?**

    *Answer: YES.* For faxed prescriptions, we suggest that pharmacists apply strategies similar to those now used to verify oral and written prescriptions received when authenticity is not apparent. The best professional judgment of the pharmacist is the key to a safe and effective process. The steps used to verify phoned prescriptions may also be useful for faxed prescriptions. These steps may include:
   
   - Calling the prescriber's office to verify a prescription if the prescriber is not known to the pharmacist;
   - Accepting a phoned in prescription in lieu of the faxed prescription;
   - Asking for proof of identity if the person picking up the prescription is not known to the pharmacist;
   - Ensuring that the prescribed drug, based on quantity, directions for use, etc., is consistent with the patient's medication profile;
   - Using other methods such as installing "Caller ID" on the phone line that is used to receive fax prescriptions;
   - Considering whether the prescribed drug is one with an abuse potential or otherwise has "street value."

12. **Can a prescriber e-mail a prescription to a pharmacy?**

    *Answer: NO.* Without special security features and safeguards, E-mail transmissions do not independently assure the required confidentiality of patient records and do not, therefore, meet the definition of an electronically transmitted prescription in the new rules and regulations.

13. **Is a pharmacy required to print and maintain a hard copy of an electronic prescription?**

    *Answer: No.* A hard copy is not required to be maintained as long as the electronic prescription is securely stored and maintained. The same applies to refills. Similar to other records, the electronic records must be maintained for five (5) years and must be reproducible in hard copy and provided to the Department upon demand. Likewise, facsimile copies must be maintained in a readable fashion for

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http://www.op.nysed.gov/prof/pharm/pharmelectrans.htm
five (5) years.

14. **What should a pharmacist do if he or she believes that dispensing a prescription will cause harm to the patient?**

   *Answer:* All pharmacists, including those providing prescriptions through a mail order service, are required to maintain a medication profile for each patient and to check for adverse drug reactions. Each pharmacist must practice according to his or her best professional judgment and the law. If there are concerns that a prescription can cause harm to a patient, a pharmacist may contact the prescriber. If a pharmacist believes that a prescription can cause harm to a patient, even after discussion with the prescriber, the pharmacist can choose not to fill the prescription.

15. **What should a pharmacist do if he or she believes a prescriber is ordering a prescription that is not consistent with the prescriber’s scope of practice?**

   *Answer:* If a prescriber cannot legally order the prescription based upon the prescriber’s scope of practice, the pharmacist must not fill the prescription.

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**Controlled Substances**

16. **May a controlled substance prescription be electronically transmitted?**

   *Answer:* **YES.** Amendments to Title 10 NYCRR Part 80 Rules and Regulations on Controlled Substances have been adopted and became effective as final regulations on March 27, 2013. The amendments authorize a practitioner to issue an electronic prescription for controlled substances (EPCS) in Schedules II through V and allow a pharmacy to accept, annotate, dispense and electronically archive such prescriptions. The practitioner and pharmacy must use a certified software application that is consistent with all federal security requirements to process electronic prescriptions for controlled substances. The federal security requirements for EPCS are included in the Drug Enforcement Administration Interim Final Rule, 21 CFR §1300 et seq., and can be accessed via the following link: [www.deadiversion.usdoj.gov/eomm/e_rx/](http://www.deadiversion.usdoj.gov/eomm/e_rx/). New York State regulations also require each pharmacy and practitioner to register their certified software application with the Department of Health, Bureau of Narcotic Enforcement (BNE). Please visit BNE’s webpage at [www.health.ny.gov/professionals/narcotic](http://www.health.ny.gov/professionals/narcotic) for additional information.

As of March 27, 2015, all prescriptions (including prescriptions for controlled substances) issued in New York State must be electronically transmitted, with certain limited exceptions.

17. **Can controlled substance refills be transferred from one pharmacy to another?**

   *Answer:* **NO.**

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**Further Information**

18. **Who do I contact for more information about the electronic transmission of prescriptions?**

   *Answer:* The mailing address for all offices listed below is: Office of the Professions, State Education Building - 2nd floor, 89 Washington Avenue, Albany, New York 12234

   - **Dentistry:** New York State Board for Dentistry (518) 474-3817 ext. 550; Fax (518) 473-0567; E-mail dentbd@nysed.gov.
   - **Medicine & Veterinary Medicine:** New York State Boards for Medicine & Veterinary Medicine (518) 474-3817 ext. 560; Fax (518) 486-4846; E-mail medbd@nysed.gov and vetmedbd@nysed.gov.
   - **Nursing:** New York State Board for Nursing (518) 474-3817 ext. 120; Fax (518) 474-3706; E-mail nursebd@nysed.gov.
   - **Optometry:** New York State Board for Optometry (518) 474-3817 ext. 210; Fax (518) 473-0567; E-mail optombd@nysed.gov.
   - **Pharmacy & Midwifery:** New York State Boards of Pharmacy & Midwifery (518) 474-3817 ext. 130; Fax (518) 473-6995; E-mail pharmbd@nysed.gov and midwifbd@nysed.gov.
   - **Podiatry:** New York State Board for Podiatry (518) 474-3817 ext. 180; Fax (518) 474-6375; E-mail podbd@nysed.gov.
   - **New York State Health Department, Bureau of Narcotic Enforcement,** (518) 402-0707; E-mail Narcotic@health.state.ny.us.