



U. S. Department of Justice
Drug Enforcement Administration

www.dea.gov

Washington, D.C. 20537

NOV 21 2007

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BOARD OF PHARMACY

Gary Schnabel, R.N., R.Ph.
Executive Director
Oregon Board of Pharmacy
800 NE Oregon Street
Suite 150
Portland, Oregon 97232

Dear Mr. Schnabel:

This is in response to your request of Diversion Group Supervisor (GS) Roger Beltz to provide a written response detailing the Drug Enforcement Administration's (DEA) position on the transmission of schedule III-V controlled substance prescriptions. Specifically, GS Beltz noted that the Oregon Board of Pharmacy has allowed pharmacists to fill unsigned faxed prescriptions for schedule III-V controlled substances, viewing these as the equivalent of an oral prescription. He further stated that the Board also allows for the electronic transmission of prescriptions for schedule III-V controlled substances. Neither of these allowances is supported by the Controlled Substances Act or its regulations.

Title 21 Code of Federal Regulations (CFR) §1306.21(a) states, "*A pharmacist may dispense directly a controlled substance listed in Schedule III, IV, or V which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, only pursuant to either a written prescription signed by a practitioner or a facsimile of a written, signed prescription transmitted by the practitioner or the practitioner's agent to the pharmacy or pursuant to an oral prescription made by an individual practitioner and promptly reduced to writing by the pharmacist containing all information required in Section 1306.05, except for the signature of the practitioner.*"

The regulation clearly states that the fax transmission must be of a written, signed prescription. Furthermore, the DEA differentiates between written and oral prescriptions. A signed fax transmission falls under the written category and cannot be interchanged with the requirements for an oral prescription. Should a pharmacist receive a fax transmission of an unsigned Schedule III-V controlled substance prescription, the pharmacist may not fill the prescription. If the pharmacist wishes to fill the prescription; he/she must request a hard-copy written prescription, a faxed signed prescription, or they may establish an oral prescription. For an Oregon pharmacist to fulfill the requirements of an oral prescription for a schedule III-V controlled substances, the pharmacist must call the practitioner to establish it as an oral prescription and then reduce it to writing.

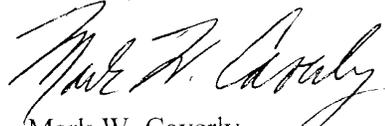
Likewise, the pharmacist may choose to fulfill the requirements of an oral prescription when presented with an electronically transmitted prescription. Currently the DEA regulations do not contemplate the use of electronic prescriptions for controlled substances. However, in July 2006, DEA held a public meeting with the Department of Health and Human Services to hear from many

members of industry and law enforcement regarding the use of electronic signatures in the prescribing of controlled substances. Transcripts of the meeting are available on DEA's Office of Diversion Control web-site, www.deadiversion.usdoj.gov. Based on the meeting, DEA is drafting a Notice of Proposed Rulemaking which would change the current regulations to address the use of electronic prescriptions for controlled substances. Once completed, the Notice of Proposed Rulemaking will be published in the Federal Register and available on DEA's website.

Please be advised that both the prescribing practitioner and the pharmacist have responsibilities when it comes to making sure that a prescription conforms to the law and regulations. Title 21 CFR §1306.05(a) states, "*The prescriptions may be prepared by the secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist, including a pharmacist employed by a central fill pharmacy, who fills a prescription not prepared in the form prescribed by DEA regulations.*"

I trust that this information clarifies DEA's position on facsimile and electronic prescribing and will assist you in advising pharmacists in the State of Oregon. If you have any additional questions, please do not hesitate to contact our Liaison and Policy Section at (202) 307-7297.

Sincerely,



Mark W. Caverly
Chief, Liaison and Policy Section
Office of Diversion Control