

New Jersey Board of Pharmacy

PO Box 45013
124 Halsey St, 6th Floor
Newark, NJ 07101
www.state.nj.us/lps/ca/boards.htm

Published to promote voluntary compliance of pharmacy and drug law.

New Fax and Electronic Prescription Regulations Passed

The New Jersey State Board of Medical Examiners and the New Jersey Board of Pharmacy adopted new rules on September 15, 2003, concerning prescriptions and medication orders transmitted electronically or by facsimile.

The type of transmission contemplated by N.J.A.C. 13:35-7.4 and 13:39-5.8A is the traditional facsimile transmission; that is, a transmission from one facsimile machine to another. Such prescriptions require an original handwritten signature. An electronic prescription, on the other hand, is defined in new rules N.J.A.C. 13:35-7.4A and 13:39-5.8B as a prescription that is transmitted by computer device. The prescription transmission contemplated in N.J.A.C. 13:35-7.4A and 13:39-5.8B includes computer-to-computer and computer-to-facsimile transmissions because both types of transmissions are generated and sent by computer. Practitioners can send, and pharmacists can accept, electronic prescriptions sent by either type of transmission.

Board of Medical Examiners: N.J.A.C. 13:35-7.4 and 7.4A

13:35-7.4 Facsimile Transmitted Prescriptions

- (a) A practitioner, acting within his or her scope of lawful practice and after an examination of the patient's condition, consistent with the requirements of N.J.A.C. 13:35-7.1A, may transmit, or have an authorized agent transmit, a facsimile prescription to a pharmacy which has been approved by a patient, a patient's guardian, or a patient's authorized representative, consistent with the requirements of this section. For purposes of this section, "facsimile prescription" means a prescription issued by the practitioner which is transmitted by a device which sends an exact image to the receiver.
- (b) A practitioner shall comply with all requirements set forth in this subchapter, and shall ensure that all information required to be included on a written prescription pursuant to N.J.A.C. 13:35-7.2(d) is provided on each facsimile prescription, except that an NJPB [New Jersey prescription blank] shall not be required for the prescription.
- (c) The transmission of a facsimile prescription shall contain the following:
 1. The identification number of the facsimile machine which is used to transmit the prescription to the pharmacy;
 2. The time and date of the transmission of the prescription;
 3. The name, address, telephone number and facsimile number of the pharmacy to which the prescription is being transmitted; and
 4. If an authorized agent transmits the facsimile prescription, the full name and title of the transmitting agent.

- (d) A practitioner shall provide verbal verification of the facsimile prescription upon request of the pharmacy when the pharmacist has a question regarding the authenticity, accuracy or appropriateness of the prescription. A practitioner's authorized agent may provide verbal verification of the facsimile prescription to the pharmacy when the pharmacist has a question regarding the authenticity or legibility of the prescription.
- (e) A practitioner or his or her authorized agent may transmit a facsimile prescription to a pharmacy for a Schedule II controlled substance, provided that the patient is given the original signed NJPB which is presented to the pharmacist prior to the dispensing of the controlled substance, except as provided in (e)1, 2 and 3 below:
 1. A prescription for a Schedule II narcotic substance prescribed for pain management to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription.
 2. A prescription for a Schedule II substance prescribed for pain management for a resident of a long term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription.
 3. A prescription for a Schedule II narcotic substance prescribed for pain management for a patient receiving services from a hospice certified by Medicare under Title XVIII or licensed by the State may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or the practitioner's agent shall note on the facsimile prescription

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tion that the patient is a hospice patient. The facsimile shall serve as the original written prescription.

- (f) A practitioner or his or her authorized agent may transmit a facsimile prescription to a pharmacy for a Schedule III, IV, or V controlled substance consistent with the requirements of this section. The facsimile shall serve as the original written prescription.
- (g) If a facsimile prescription is provided for a Schedule II substance prescribed for pain management to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion, or for a resident of a long term care facility, or for a patient receiving services from a hospice certified by Medicare under Title XVIII or licensed by the State, or for a Schedule III, IV or V controlled substance, the practitioner shall not provide the patient, the patient's guardian, or the patient's authorized representative with the original written prescription.
- (h) A practitioner shall not enter into any agreement with a pharmacy that requires facsimile prescriptions be transmitted to that particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted by facsimile to a pharmacy of the patient's choice.

13:35-7.4A Electronically Transmitted Prescriptions

- (a) A practitioner, acting within his or her scope of lawful practice and after an examination of the patient's condition, as defined in N.J.A.C. 13:75-7.1, may transmit, or have an authorized agent transmit, an electronic prescription to a pharmacy which has been approved by a patient, a patient's guardian, or a patient's authorized representative, consistent with the requirements of this section. For purposes of this section, "electronic prescription" means a prescription which is transmitted by a computer device in a secure manner, including computer to computer and computer to facsimile transmissions.
- (b) A practitioner shall comply with all requirements set forth in this subchapter, and shall ensure that all information required to be included on a written prescription pursuant to N.J.A.C. 13:35-7.2(d) is provided in each electronic prescription, except that a handwritten original signature and an NJPB shall not be required for the prescription.
- (c) A practitioner's electronic signature, or other secure method of validation, shall be provided with the electronic prescription unless the prescription is transmitted by an authorized agent as provided in (e) below.
- (d) To maintain confidentiality of electronic prescriptions, the practitioner shall ensure that the electronic system used to transmit the electronic prescription has adequate security and system safeguards designed to prevent and detect unauthorized access, modification or manipulation of such records, and shall include, at a minimum, electronic encryption.
- (e) A practitioner may authorize an agent to electronically transmit a prescription provided that the full name and title of the transmitting agent is included on the transmission, and provided that the practitioner's authorized agent does not sign the electronic prescription.
- (f) A practitioner shall provide verbal verification of an electronic prescription upon request of the pharmacy when the

pharmacist has a question regarding the authenticity, accuracy or appropriateness of the prescription. A practitioner's authorized agent may provide verbal verification of the electronic prescription to the pharmacy when the pharmacist has a question regarding the authenticity or legibility of the prescription.

- (g) A practitioner or the practitioner's authorized agent may transmit an electronic prescription to a pharmacy for a Schedule II controlled substance, provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance. If permitted by Federal law, and in accordance with Federal requirements, the electronic prescription shall serve as the original signed prescription and the practitioner shall not provide the patient, the patient's guardian, or the patient's authorized representative with a signed, written prescription.
- (h) A practitioner or his or her authorized agent may transmit an electronic prescription to a pharmacy for a Schedule III, IV, or V controlled substance, provided that the original signed prescription for presentation at the pharmacy, an oral prescription, or a facsimile prescription is provided. If permitted by Federal law, and in accordance with Federal requirements, the electronic prescription shall serve as the original signed prescription and the practitioner shall not provide the patient, the patient's guardian, or the patient's authorized representative with a signed, written prescription.
- (i) A practitioner shall not enter into any agreement with a pharmacy which requires that electronic prescriptions be transmitted to a particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted electronically to a pharmacy of the patient's choice.

Board of Pharmacy: N.J.A.C. 13:39-5.8A and 5.8B

13:39-5.8A Prescriptions Transmitted by Facsimile

- (a) A pharmacist may accept for dispensing a facsimile prescription, consistent with the requirements of this section. For purposes of this section, "facsimile prescription" means a prescription which is transmitted by a device which sends an exact image to the receiver.
- (b) A pharmacist shall not fill a facsimile prescription transmitted by anyone other than a practitioner authorized to prescribe medications pursuant to N.J.S.A. 45:14-14, or the prescribing practitioner's authorized agent.
- (c) The facsimile machine used to receive prescriptions shall be located within the pharmacy prescription area.
- (d) A facsimile prescription shall contain all information required to be included on a written prescription pursuant to New Jersey State Board of Medical Examiners rule N.J.A.C. 13:35-7.2(d), except that an NJPB shall not be required for the prescription.
- (e) The facsimile transmission of the prescription shall contain the following:
 1. The identification number of the facsimile machine which is used to transmit the prescription;
 2. The date and time of the prescription transmission;
 3. The name, address, telephone number and facsimile number of the pharmacy; and
 4. If an authorized agent transmits the facsimile prescription, the full name and title of the transmitting agent.
- (f) A pharmacist shall seek verbal verification of a facsimile prescription from the prescribing practitioner whenever the

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pharmacist has reason to question the authenticity, accuracy or appropriateness of the prescription. A pharmacist may accept verbal verification regarding the authenticity or legibility of a facsimile prescription from a prescribing practitioner's authorized agent. A pharmacist shall not fill a facsimile prescription where there is a question regarding authenticity, accuracy or appropriateness if such verification is not provided.

- (g) A pharmacist shall retain a printed copy of a facsimile prescription, or an electronic reproduction of the facsimile prescription that is readily retrievable and printable, for a minimum of five years pursuant to N.J.S.A. 45:14-15. The printed copy shall be of non-fading legibility.
- (h) A pharmacist may fill a prescription for a Schedule II controlled substance transmitted by facsimile provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance, except as provided in (h)1, 2 and 3 below.
 - 1. A prescription for a Schedule II narcotic substance prescribed for pain management to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription and shall be maintained pursuant to the requirements of (g) above.
 - 2. A prescription for a Schedule II narcotic substance prescribed for pain management for a resident of a long term care facility may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The facsimile shall serve as the original written prescription and shall be maintained pursuant to the requirements of (g) above.
 - 3. A prescription for a Schedule II substance prescribed for pain management for a patient receiving services from a hospice certified by Medicare under Title XVIII or licensed by the State may be transmitted by the practitioner or the practitioner's agent to the dispensing pharmacy by facsimile. The practitioner or the practitioner's agent shall note on the facsimile prescription that the patient is a hospice patient. The facsimile shall serve as the original written prescription and shall be maintained pursuant to the requirements of (g) above.
- (i) A pharmacist may fill a prescription for a Schedule III, IV or V controlled substance transmitted by facsimile consistent with the requirements of this section. The facsimile prescription shall serve as the original written prescription.
- (j) A pharmacist shall not enter into any agreement with a prescribing practitioner that requires that facsimile prescriptions be transmitted to a particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted by facsimile to a pharmacy of the patient's choice.

13:39-5.8B Electronically Transmitted Prescriptions

- (a) A pharmacist may accept for dispensing an electronic prescription, consistent with the requirements of this section. For purposes of this section, "electronic prescription" means a prescription which is transmitted by a computer device in a secure manner, including computer to computer and computer to facsimile transmissions.

- (b) A pharmacist shall not fill an electronic prescription transmitted by anyone other than a practitioner authorized to prescribe medications pursuant to N.J.S.A. 45:14-14, or the prescribing practitioner's authorized agent. If the electronic prescription is transmitted by the practitioner's authorized agent, the transmission shall include the full name and title of the agent.
- (c) The permitholder shall ensure that the electronic system utilized to receive prescriptions shall have adequate security and system safeguards designed to prevent and detect unauthorized access, modification or manipulation of the prescriptions.
- (d) The computer or device used to receive electronically transmitted prescriptions shall be located within the pharmacy prescription area.
- (e) An electronic prescription shall contain all information required to be included on a written prescription pursuant to New Jersey State Board of Medical Examiners rule N.J.A.C. 13:35-7.2(d), except that a handwritten original signature and an NJPB shall not be required for the prescription.
- (f) A pharmacist shall seek verbal verification of an electronic prescription from the prescribing practitioner whenever the pharmacist has reason to question the authenticity, accuracy or appropriateness of the prescription. A pharmacist may accept verbal verification regarding the authenticity or legibility of an electronic prescription from a prescribing practitioner's authorized agent. A pharmacist shall not fill the electronic prescription where there is a question regarding authenticity, accuracy or appropriateness if such verification is not provided.
- (g) A pharmacist shall retain a printed copy of an electronic prescription, or a record of an electronic prescription that is readily retrievable and printable, for a minimum of five years pursuant to N.J.S.A. 45:14-15. The printed copy shall be of non-fading legibility.
- (h) A pharmacist may fill a prescription for a Schedule II controlled substance transmitted electronically, provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance. If permitted by Federal law, and in accordance with Federal requirements, an electronic prescription shall serve as the original signed prescription.
- (i) A pharmacist may fill a prescription for a Schedule III, IV or V controlled substance transmitted electronically, provided that the pharmacist has obtained the original signed prescription, an oral prescription, or a facsimile prescription from the prescribing practitioner or the prescribing practitioner's authorized agent prior to the dispensing. If permitted by Federal law, and in accordance with Federal requirements, an electronic prescription shall serve as the original signed prescription.
- (j) A pharmacist shall not enter into any agreement with a prescribing practitioner that requires that electronic prescriptions be transmitted to a particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted electronically to a pharmacy of the patient's choice.

N.J.A.C. 13:39-5.8 Amended

At the time new rule 13:39-5.8A and 5.8B were adopted, existing rule 13:39-5.8 was amended. Prior to the amendment 13:39-5.8 applied to both retail and institutional settings. The amended 13:39-5.8 rule is now specific to institutions.

13:39-5.8 Prescriptions and Medication Orders Transmitted by Technological Devices in an Institution

- (a) (No change.)
- (b) A registered pharmacist filling prescriptions under an institutional permit for employees of the institution and their dependents and for out-patients who are treated by staff members of the institution in their respective clinics, as permitted pursuant to N.J.S.A. 45:14-32, may accept for dispensing prescriptions for all substances other than Schedule II controlled dangerous substances which have been transmitted by technological device, under the following conditions only:
 - 1.-2. (No change.)
- (c)-(g) (No change.)

Criminal Background Checks Now Required

Recent legislation (N.J.S.A. 45: 1-28 et seq) requires the Division of Consumer Affairs to conduct criminal history background checks of all health care professionals prior to the issuance of an initial license or other authorization to practice a health care profession. Applicants will be provided with a Certification and Authorization Form. Upon receipt of this completed form, the Board will forward to the applicant the information needed to have his or her fingerprints recorded. The recording of the applicant’s fingerprints is necessary to conduct the criminal history record background check. There is a \$73 fee for this service. A criminal history background check will not be required for those licensees who currently have an active license and maintain such license active.

Regulation Guidance

Question: Are your weights, scales, and counting devices inspected annually and sealed by Weights and Measures?

Answer: N.J.A.C. 13:39-7.11 requires that all pharmacies shall prove to the satisfaction of the Board that all balances, scales, weights, and automatic counting devices have been annually inspected by the Department of Weights and Measures of the municipality or county in which such pharmacy, drugstore, or other Board-licensed establishment is located, and that such balances, scales, weights, and automatic counting devices have been properly sealed by the applicable authority.

Question: Was your automated dispensing system inspected and approved by the Board prior to use?

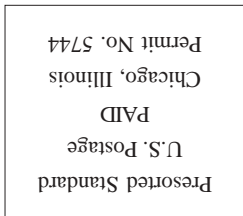
Answer: N.J.A.C. 13:39-10 et seq AUTOMATED MEDICATION SYSTEMS is applicable to all pharmacies and/or facilities that utilize automated medication systems to store, package, dispense, and distribute prescriptions or medication orders. “Automated medication system” does not mean an automatic counting device operated pursuant to N.J.A.C. 13:39-7.11 or a mechanical drug-dispensing device operated pursuant to N.J.A.C. 13:39-9.14. A pharmacy may use an automated medication system to fill prescriptions or medication orders provided that the Board has conducted an inspection of the pharmacy, including an inspection of the automated medication system. If you are using an automated dispensing system (eg, ScriptPro, Pyxis Envoy, PHARMAssist, AutoMed, BakerAPS) and you have not had the system inspected prior to using it, please contact the Board of Pharmacy and request an inspection.

Question: How should prescriptions written outside of New Jersey be handled when presented for filling in a New Jersey pharmacy?

Answer: N.J.A.C. 13:39-6.6 states, “Only those prescriptions written or signed by an authorized prescriber licensed to write prescriptions in the United States, District of Columbia, or any territory of the United States shall be considered valid prescription orders.” However, out-of-state prescriptions shall be filled pursuant to New Jersey law. For example, New York has an exception to the 30-day maximum supply on Schedule II prescriptions when a patient’s diagnosis of attention deficit disorder is indicated on the prescription. New Jersey does not have such an exemption. Therefore, the New York prescription can only be filled for a 30-day supply or 120 dosage units (New Jersey law).

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New Jersey Board of Pharmacy - State News Editor
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& Executive Editor
Reneeta C. “Rene” Renganathan - Editorial Manager



NEW JERSEY BOARD OF PHARMACY
National Association of Boards of Pharmacy Foundation, Inc
700 Busse Highway
Park Ridge, Illinois 60068