



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

November 8, 2017

Dear Practitioners and Pharmacists:

This letter is to inform you of a blanket waiver of the electronic prescribing requirements, set forth in Public Health Law (PHL) § 281 and Education Law § 6810, for nursing homes and residential health care facilities. As of November 1, 2017, this blanket waiver replaces and supersedes my prior blanket waiver, issued by letter dated March 2, 2017.

The New York State Department of Health (Department) acknowledges that, while many nursing homes and residential health care facilities have adopted electronic prescribing, there remain some facilities in which electronic prescribing may not be currently possible due to technological or economic issues or other exceptional circumstances, including a heavy reliance upon oral communications with the prescriber and pharmacy.

For these reasons, pursuant to my authority in PHL § 281(3), and as stated in a letter dated June 15, 2017, I hereby continue to waive from the requirements of electronic prescribing:

1. a practitioner prescribing a controlled or non-controlled substance either through an Official New York State Prescription form or an oral prescription communicated to a pharmacist serving as a vendor of pharmaceutical services, by an agent who is a health care practitioner, for patients in nursing homes and residential health care facilities, as defined by PHL § 2801; and
2. a pharmacist serving as a vendor of pharmaceutical services dispensing a controlled or non-controlled substance through an Official New York State Prescription form or an oral prescription, communicated by an agent who is a health care practitioner, for patients in nursing homes and residential health care facilities, as defined by PHL § 2801.

This waiver is hereby issued for the above two exceptional circumstances involving nursing homes and residential health care facilities, as defined by PHL § 2801, and shall be effective from November 1, 2017 through October 31, 2018. Practitioners who anticipate being unable to comply with the electronic prescribing mandate by October 31, 2018, should apply for an individual waiver from electronic prescribing, pursuant to PHL § 281, in advance of such date.

Practitioners issuing prescriptions in the above-listed exceptional circumstance may use either the Official New York State Prescription Form or issue an oral prescription, provided, however, that oral prescriptions remain subject to PHL §§ 3334 and 3337, which provide for oral prescriptions of controlled substances in emergencies and for other limited purposes, and subject to § 6810 of the Education Law. Pharmacists may continue to dispense prescriptions issued on the Official New York State Prescription Form or oral prescriptions in all of the above-listed exceptional circumstances.

The above blanket waiver shall not affect other general waivers the Department issues to practitioners pursuant to PHL § 281.

Sincerely,

Howard A. Zucker, M.D., J.D.
Commissioner of Health