



SureScripts Partner & Provider Issue Bulletin
***Transmission Methods Approved by the Drug Enforcement Administration (DEA) for
Controlled Substance Prescriptions***

Background

Most of our partners understand that traditionally, there have been two basic ways of transmitting prescriptions from prescriber to pharmacy—written (hard copy) and oral. Both of these modes, with certain restrictions, can be used for controlled substances:

- Schedule II—Prescriptions for these medications **MUST** be in written form and signed by the prescriber. (There are minor exceptions to this rule.) These prescriptions cannot be refilled. Examples of Schedule II medications are Oxycontin and Ritalin.
- Schedules III-V—These medications may be prescribed using either written or oral means. They can be refilled up to five times within six months from the date of issuance. Examples of medications in these schedules would include Xanax and Tylenol with Codeine.

Unfortunately, prescribing controlled substances electronically is not legal at this time.

Status of Electronic Prescribing for Controlled Substances (EPCS)

The DEA's current position on electronic prescribing for controlled substances is:

Physicians and pharmacists in many states are already using electronic Data Interchange (EDI) technology to transmit prescriptions for non-controlled substances. However, this technology cannot be used for controlled substances. Current DEA regulations specifically require that a pharmacist must have the original physical prescription slip prior to dispensing Schedule II controlled substances (with exceptions for long term care facilities and emergency dispensing). Prescriptions for substances on Schedules III-V can be transmitted orally but must be reduced to writing by the pharmacist prior to filling.

The DEA has been investigating electronic prescribing and drafting rules to permit its use for controlled substances for the past few years. A Notice of Proposed Rulemaking was expected to be published in the *Federal Register* during the spring of 2003, but has been delayed several times. SureScripts now estimates that these rules will not be released, commented upon, and finalized before mid-to-late 2007.

Options for Transmitting Controlled Substance Prescriptions

Until the DEA finalizes its EPCS rules, there are three methods available to transmit controlled substance prescriptions—written, oral, and via facsimile. The rules for written and oral prescriptions are straightforward and understood by most SureScripts partners and participating providers. The rules for faxing controlled substance prescriptions are a bit more arcane, however, so we will review the DEA's policy on this transmission method here:

- (1) If a prescription for a controlled substance for an outpatient in Schedules III through V is written in the traditional fashion on a sheet of paper, *is physically signed by the prescriber*, and is put into a fax machine and faxed to a pharmacy, it is considered an "oral" prescription by the DEA and is legal.

- (2) Schedule II prescriptions for outpatients may be faxed to pharmacies for preparation purposes, but the prescription cannot be dispensed until the pharmacist receives the actual original written prescription. (Exceptions: Faxing of Schedule II medications *is* allowed for parenteral products and for patients in long-term care facilities or those who are under hospice care.)
- (3) If *any* type of electronic device, whether it is a PC, fax server, handheld, cellular telephone, or any other type of technology generates and faxes a prescription *electronically* to a pharmacy and either (a) isn't signed or (b) contains an electronic or digital signature, *this is not considered a legal controlled substance prescription and is unacceptable to the DEA.* These are exactly the methods of transmission, in addition to totally electronic transmission, that the DEA seeks to regulate in the EPCS rules, and until these rules are finalized, such methods cannot be used.

As a reminder, in all cases it is the pharmacist who is held liable by state authorities and the DEA for determining the authenticity and legitimacy of every controlled substance prescription they dispense. (Specifically, the Code of Federal Regulations, Section 1306.04 (a) states that for a prescription for a controlled substance to be effective it must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.)

Approaches to Controlled Substance Prescriptions During the Transition

During the period from when electronic prescribing is introduced and the DEA finalizes its EPCS rules, SureScripts partners and participating providers will have to employ hybrid methods for handling controlled substance prescriptions. Acceptable hybrid methods include:

- (1) Using electronic transmission for non-controlled substances, but traditional written or oral prescriptions for controlled substances.
- (2) Using electronic transmission for non-controlled substances, but requiring the physician to print out, physically sign, and fax Schedule III through V controlled substance prescriptions to pharmacies. These signed prescriptions could also be carried by the patient to the pharmacy.
- (3) Using electronic transmission for all prescriptions excluding Schedule II, but requiring pharmacists to call physician offices to verify the authenticity of Schedule III through V controlled substance prescriptions. When documented as required by state law with a notation as to who verified the prescription (e.g., the prescriber or agent), this in effect makes them oral prescriptions. (*Important Note: Use of this third method requires that both the physicians and pharmacists involved must have knowledge of its requirements and have agreed in advance to use this method.*)

Obviously, each of these methods affects the technologies, workflows, and people involved in and served by the prescribing process. SureScripts will continue to be a resource to all parties as they make their choices, so any questions on this issue can be directed to Ken Whittemore, Jr., R.Ph., MBA, Senior Vice President of Clinical Practice Integration, at 703-921-2114 or ken.whittemore@surescripts.com.

(Note: This bulletin was reviewed by the DEA and was deemed accurate on September 3, 2003 and was reconfirmed with DEA staff on November 21, 2006.)