

Guidance: Transfer of Controlled Substance Prescriptions

Pursuant to Minnesota Statutes 214.108, the Minnesota Board of Pharmacy (Board) can offer guidance to licensees about the application of the statutes and rules that the Board enforces. Such guidance is not binding in any court or other adjudicatory body. Some of the areas addressed below contain recommendations that do not have the force of law, while other areas concern issues that *are* addressed in statutes or rules; for those areas, the requirements in the law control. The Board strongly recommends that policies and procedures be developed with all these issues in mind, even those that are not addressed in statutes and rules. This document has been approved by the Board to offer guidance to pharmacists regarding the transfer of unfilled electronic controlled substance (CS) prescriptions.

INTRODUCTION

The Drug Enforcement Administration (DEA) has revised 21 CFR [§ 1306.08](#) to state that, upon request from the patient, a pharmacy may transfer an electronic CS prescription in Schedules II – V to another registered retail pharmacy for initial filling **subject to the conditions specified in the rule and its associated subparts**. The final rule was published in the Federal Register on July 27, 2023, and became effective on August 28, 2023.

The full text and notice of rulemaking including public comments and DEA opinions can be found here: [Federal Register :: Transfer of Electronic Prescriptions for Schedules II-V Controlled Substances Between Pharmacies for Initial Filling](#)

One of the provisions in the federal rule requires that the transfer is permissible only if allowable under existing state or other applicable law. Minnesota Rule 6800.3120 is the state law which governs this type of activity. The rule addresses both non-dispensed (initial fill) and refill prescriptions. The rule prohibits the transfer of Schedule II prescription drug orders. Given the federal rule change, the Board intends to propose to strike that restriction from MN Rule 6800.3120 through rulemaking processes to align it with the federal law.

Board Guidance

The Board believes that it would be beneficial to public health to ensure that duplicate Schedule II prescriptions are not available to patients across several pharmacies, and that pharmacists are in a position to ensure the appropriate transfer of those prescriptions. As such, the Board does not intend to enforce the restriction within MN Rule 6800.3120 which prohibits the transfer of Schedule II prescriptions, when a pharmacist acts in compliance with all federal provisions of the rule, and in accordance with all other requirements in MN Rule 6800.3120.

SUMMARY

Based on the new federal rule, a pharmacist in the state of Minnesota may transfer a prescription at the request of a patient even if the prescription has not yet been filled but has been profiled, including those in Schedules II – V with enforcement discretion by the Board. A pharmacist (or intern) must do so subject to the conditions and provisions in Federal Rule 1306.08 and all other provisions of MN Rule 6800.3120.

Pharmacists should be aware that the DEA's new rule does not authorize the transfer of written or oral CS prescriptions for initial filling. DEA's commentary notes that if a pharmacy is unable to fill a written CS prescription, it may return the paper to the patient.

References:

Minnesota Rule 6800.3120 Subp. 2
Minnesota Rule 6800.9900
Minnesota Statute 151.01 Subd. 2
Minnesota Statute 151.01 Subd. 23
Minnesota Statute 62J.497 Subd 2
Minnesota Statute 62J.497 Subd 3

Minnesota Statute 152.01 Subd 4
Minnesota Statute 152.11 Subd 1
Minnesota Statute 152.11 Subd 1a

21 CFR 1306.08
21 CFR 1306.25