

## **NYS Nurse Practitioners and Midwives: Prescribing Information**

### **NYSNA Continuing Education**

*The New York State Nurses Association is accredited as a provider of nursing continuing professional development by the American Nurses Credentialing Center's Commission on Accreditation.*

This program has been awarded 2.5 CHs through the New York State Nurses Association Accredited Provider Unit.

*The New York State Nurses Association is accredited by the International Association for Continuing Education and Training "IACET" and is authorized to issue the IACET CEU.*

The New York State Nurses Association is authorized by IACET to offer 0.3 CEUs for this program.

This course is intended for RN's and other healthcare professionals. In order to receive contact hours/CEUs, participants must read the course material, pass an examination with at least 80%, and complete an evaluation. Contact hours/CEUs will be awarded for this online course until May 29, 2021.

All American Nurses Credentialing Center (ANCC) accredited organizations' contact hours are recognized by all other ANCC accredited organizations. Most states with mandatory continuing education requirements recognize the ANCC accreditation/approval system. Questions about the acceptance of ANCC contact hours to meet mandatory regulations should be directed to the Professional licensing board within that state.

NYSNA has been granted provider status by the Florida State Board of Nursing as a provider of continuing education in nursing (Provider number 50-1437).

NYSNA wishes to disclose that no commercial support or sponsorship has been received.

## How to Take This Course

Please take a look at the steps below; these will help you to progress through the course material, complete the course examination and receive your certificate of completion.

### 1. REVIEW THE OBJECTIVES

The objectives provide an overview of the entire course and identify what information will be focused on. Objectives are stated in terms of what you, the learner, will know or be able to do upon successful completion of the course. They let you know what you should expect to learn by taking a particular course and can help focus your study.

### 2. STUDY EACH SECTION IN ORDER

Keep your learning "programmed" by reviewing the materials in order. This will help you understand the sections that follow.

### 3. COMPLETE THE COURSE EXAM

After studying the course, click on the "Course Exam" option located on the course navigation toolbar. Answer each question by clicking on the button corresponding to the correct answer. All questions must be answered before the test can be graded; there is only one correct answer per question. You may refer back to the course material by minimizing the course exam window.

### 4. GRADE THE TEST

Next, click on "Submit Test." You will know immediately whether you passed or failed. If you do not successfully complete the exam on the first attempt, you may take the exam again. If you do not pass the exam on your second attempt, you will need to purchase the course again.

### 5. FILL OUT THE EVALUATION FORM

Upon passing the course exam you will be prompted to complete a course evaluation. You will have access to the certificate of completion **after you complete the evaluation**. At this point, you should print the certificate and keep it for your records.

## About the Author

### **Silvia Y. Beaupre, NPP, APRN, BC**

Ms. Beaupre is a board certified psychiatric nurse practitioner in private practice. Ms. Beaupre has worked in a variety of clinical settings, treating a range of psychiatric illness, from the chronically and persistently mentally ill in inpatient settings to treating adult patients in private out-patient settings. Her specialty area of focus is mood disorders in women. She has been an educator in the classroom and in the clinical setting for nursing students at associate's, bachelor's and master's degree levels. She also has extensive experience in staff development and clinical supervision.

Ms. Beaupre received a baccalaureate in nursing from DePaul University in Chicago, a master's degree in Psychiatric-Community Mental Health Nursing from the University of Illinois at Chicago and a Post Master's Certificate in Nursing, Psychiatric Nurse Practitioner from The Sage Colleges in Troy, NY. Ms. Beaupre has many years of clinical experience as a psychiatric clinical nurse specialist and psychiatric nurse practitioner, functioning as an educator, administrator, therapist, consultant and psychopharmacologist.

This course was updated in August 2006 by **Ellen Brickman, MPH, MS, RN, NP**. Ms. Brickman was the Director of the Statewide Peer Assistance for Nurses Program at the time, she has since retired from the position.

The 2011 course updates were completed by **Barbara Fane, MS, RN, APRN-BC**. Ms. Fane is a board-certified Advanced Practice Registered Nurse in Adult Health who serves as clinical advisor and preceptor to graduate and post-graduate nursing students pursuing advanced practice in the roles of Nurse Practitioner or Clinical Nurse Specialist.

In April 2012 a pilot study was conducted, changing the Contact Hours and in turn this course was renamed and is presented with the most current evidence in conjunction with New York State Board of Nursing requirements.

The 2015 course updates were completed by **Carol Lynn Esposito, Ed.D., JD, MS, RN**. Dr. Esposito is the Director of Nursing Education and Practice for the New York State Nurses Association and lead nurse planner for continuing education in nursing.

Dr. Esposito and NYSNA's nursing education team design, develop, implement and evaluate the association's nursing practice and occupational health and safety law continuing education programs. Dr. Esposito has been adjunct faculty at Adelphi University, Hofstra University, Dowling College, and Excelsior College where she has taught courses on Contemporary Legal Issues in Healthcare, Collective Bargaining, Ethics, Policy and Politics in Nursing, Healthcare Management, Communications in Nursing, and Violence in the Healthcare Setting. She has also taught courses in Introduction to Law, Civil Litigation, Risk Management, Medical Malpractice, and Birth Injuries. An attorney with over 25 years of experience in the trial of medical and nursing malpractice cases, Dr. Esposito has worked for several medical malpractice and personal injury firms, and for the United States Attorney's Office in their civil litigation department.

Dr. Esposito has been an honorarium and keynote speaker for various schools of nursing and professional organizations. She has authored articles on Informed Consent, Malpractice Insurance, Transcultural Nursing, Nursing Ethics, Leadership, Patient Satisfaction, and has developed course and text materials for the New York State Nurses Association, Hofstra University, Dowling College, and the National Center of Professional Development.

The 2018 course updates were completed by **Jennifer Klimek Yingling PhD, RN, ANP-BC, FNP-BC**. Dr. Jennifer Klimek Yingling is an Assistant Professor of Nursing at Utica College. She is an upstate New York resident helping to strengthen the community through practice, academics and research. Jennifer studied at Mohawk Valley Community College, the State University of New York institute of Technology

and received her Doctorate of Philosophy in Nursing from Rutgers University. A passionate caregiver and a patient advocate, she is dual boarded Family and Adult Nurse Practitioner, holding nursing licenses in New York, Florida and Massachusetts. Her more than two decades of nursing experience include experience in medical surgical, emergency, forensic, occupational and student health.

Dr. Klimek Yingling currently practices clinically weekly in the Mohawk Valley Health Systems Emergency Department which allow her to bring real life experiences to the classroom. Her research activities include work with breast cancer survivorship, horizontal violence, emergency department throughput and Adverse Childhood Experiences. In her free time, Jennifer enjoys spending time in the Adirondacks with her husband and four children, photography, gardening, cooking and painting.

The authors declare they have no vested interest.

## Introduction

The State of New York grants prescriptive privileges to a number of professions including Dentistry, Medicine, Midwifery, Nurse Practitioners (NPs), Optometry, Physician Assistants, and Podiatry. In New York State, nurse practitioners and nurse midwives have independent prescriptive privilege. The word “independent” means that although the newly licensed nurse practitioner in practice with less than 3,600 hours of actual practice (approximately two years) and/or midwife are required to enter into a “collaborative agreement” with one physician, there is no legal requirement for the expert NP to have a written practice agreement. In both instances, the prescription is written only under the nurse practitioner’s or midwife’s name, and only the nurse practitioner’s or midwife’s name needs to appear on the prescription. By contrast, the physician assistant is considered a “dependent” practitioner who works under the “supervision” of a licensed physician responsible for the actions of the physician assistant. In the case of physician assistants, the *name* of the supervising physician must appear on the prescription in addition to that of the physician assistant. No *co-signature* of a collaborating physician is required for medication prescription, including controlled substances, for nurse practitioners, midwives or physician assistants.

New York State requires that nurse practitioners and midwives meet specific educational and practice requirements. A core requirement is the completion of an educational program that is registered by the New York State Education Department and that is designed and conducted to prepare graduates to practice as nurse practitioners. This requirement includes course work in pharmacology that meets minimum New York State requirements. If the nurse practitioner completed education in a program not registered by the New York State Education Department, for example, if they went to school in another state, the nurse practitioner or midwife must verify that they have obtained certification as a nurse practitioner from a national certifying body that is acceptable to the New York State Education Department **AND** have completed not less than three (3) semester hours of coursework in pharmacology.

The content of the pharmacology coursework must include instruction in medication management of patients in the nurse practitioner’s specialty area of practice. An additional requirement is instruction in New York State and Federal laws and regulations relating to prescriptions and recordkeeping.

This course discusses the scope of prescriptive privilege practice for nurse practitioners and midwives, including how to write a prescription, New York State prescription law, types of prescriptions (written, oral, faxed), and how to obtain official New York State prescription pads. **\*Although the term *nurse practitioner* has been used throughout this course, application extends to *nurse midwives* as well.**

**This course has been approved by the New York State Department of Education for nurse practitioners and nurse midwives who otherwise meet educational, practice, licensure and certification requirements, to meet the additional pharmacology coursework requirement.**

**Course Objectives:**

Upon completion of this course, participants will be able to:

- State the scope of practice related to prescription of medications by nurse practitioners in New York State.
- Identify the components of a prescription.
- List the information that is required by law to be present on an official New York State Prescription.
- Discuss the processes required for verbal (oral) orders, written prescriptions, and faxed orders for non-controlled substances.
- Describe the New York State Substitution Law.

## **Prescriptive Authority in New York State**

The laws that pertain to prescription writing in New York State can be found in Education Law, Public Health Law, Administrative Rules and Regulations, and Regulations of the Commissioner. Additionally, the professions that are authorized to prescribe medications have laws or regulations that codify their practice.

Prescriptive authority as it relates to the nurse practitioner or midwife is the focus of this course. The Midwifery license and prescription requirements can be found by accessing the New York State Office of the Professions website at <http://www.op.nysed.gov/prof/midwife/midwifelic.htm>; the Nurse Practitioner license and prescription requirements can be found by accessing the New York State Office of the Professions website at <http://www.op.nysed.gov/prof/nurse/np.htm>.

## Nurse Practitioners and the New York State Nurse Practice Act

The current Nurse Practice Act, signed into law in 1972 by then governor Nelson Rockefeller, specifically addresses registered professional nurses, licensed practical nurses and nurse practitioners. The Nurse Practice Act appears in Title VIII of New York State Education Law, Article 139.

The scope of practice for a **nurse practitioner** is defined in the Nurse Practice Act as:

(a) "The practice of registered professional nursing by a nurse practitioner, .... may include the diagnosis of illness and physical conditions and the performance of therapeutic and corrective measures within a specialty area of practice, in collaboration with a licensed physician qualified to collaborate in the specialty involved, provided such services are performed in accordance with a written practice agreement and written practice protocols **except as permitted by paragraph (b)** ..... The written practice agreement shall include explicit provisions for the resolution of any disagreement between the collaborating physician and the nurse practitioner regarding a matter of diagnosis or treatment that is within the scope of practice of both. To the extent the practice agreement does not so provide, then the collaborating physician's diagnosis or treatment shall prevail. Prescriptions for drugs, devices and immunizing agents may be issued by a nurse practitioner... in accordance with the practice agreement and practice protocols except as permitted by paragraph (b) of this subdivision.

(b) ...[A], a nurse practitioner... practicing for more than three thousand six hundred hours may comply with this paragraph in lieu of complying with the requirements of paragraph (a) of this subdivision relating to collaboration with a physician, a written practice agreement and written practice protocols.

A nurse practitioner complying with this paragraph shall have collaborative relationships with one or more licensed physicians qualified to collaborate in the specialty involved or a hospital, ... that provides services through licensed physicians qualified to collaborate in the specialty involved and having privileges at such institution.... For purposes of this paragraph, "collaborative relationships" shall mean that the nurse practitioner shall communicate, whether in person, by telephone or through written (including electronic) means...for the purposes of exchanging information, as needed, in order to provide comprehensive patient care and to make referrals as necessary....The nurse practitioner shall maintain documentation that supports such collaborative relationships. Failure to comply with the requirements found in this paragraph by a nurse practitioner who is not complying with such provisions of paragraph (a) of this subdivision, shall be subject to professional misconduct provisions as set forth in article one hundred thirty of this title.

Since 1992, the Nurse Practice Act has contained a special section describing the practice of certified Nurse Practitioners. The nurse practitioner in New York State does not hold a separate license; the registered professional nurse license is required for nurse practitioner practice. The nurse practitioner then receives certification (rather than licensure) from the New York State Education Department (NYSED) Board for Nursing (BON) to practice as a nurse practitioner, after completing educational and practice requirements. NYSED certifies NPs to practice in the following specialty practice areas: Acute Care, Adult Health, College Health, Community Health, Family Health, Gerontology, Holistic Care, Neonatology, Obstetrics/Gynecology, Oncology, Pediatrics, Palliative Care, Perinatology, Psychiatry, School Health, and Women's Health.

In New York State, certified nurse practitioners have **independent prescriptive privilege**. Nurse practitioners in New York State must apply for prescriptive privileges through the Commissioner of Education of the State of New York. When it comes to writing prescriptions, nurse practitioners in New York State can do so without any co-signature of a collaborating physician. The Nurse Practice Act specifies that the newly certified nurse practitioner *collaborates* with the physician. However, starting on January 1, 2015, an NP with more than 3,600 hours of qualifying NP practice experience can opt to: 1. continue to practice pursuant to a written practice protocols and a written practice agreement with a



collaborating physician or, 2. practice and have collaborative relationships with one or more qualified physicians or New York State Health Department licensed health care facility (i.e., hospital, nursing home, ambulatory surgery center, or diagnostic and treatment center). The New York State Board for Nursing has opined that nurse practitioners are independent healthcare providers and work collaboratively with the collaborating physician. There is no requirement for physician supervision or for a co-signature by the collaborating physician on prescriptions or patient records.

### Position Statement on Nurse Practitioner Prescriptive Privilege

Under New York State (NYS) law, an applicant who satisfies all requirements for certification as a nurse practitioner may be authorized to issue prescriptions pursuant to Section 6902(3)(b) of the Education Law after completing instruction, satisfactory to the department, in New York State and Federal laws and regulations relating to prescriptions and recordkeeping.

The American Association of Nurse Practitioners (AANP) advocates unlimited prescriptive authority for nurse practitioners in that they are licensed independently and have completed required advanced education. Four decades of research shows that nurse practitioners provide safe, cost-effective, high-quality health care (AANP, 2013). The Office of Professions under the New York State Education Department agrees with this position statement.

### Advanced Practice Nurses Recognized in New York State

There are three categories of registered nurses (RNs) in New York State in advanced practice titles: nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists. Nurse practitioners (NPs) and clinical nurse specialists (CNSs) are specifically recognized in the New York State Nurse Practice Act. In New York, midwifery is not considered a nursing profession. Midwifery is a separately licensed profession.

New York State certifies NPs to practice in one or more of the following specialty areas: Adult Health; Family Health; Gerontology; Neonatology; Obstetrics; Oncology; Pediatrics, Perinatology; Psychiatry; School Health; Women's Health; Holistic Care; and Palliative care.

New York State certifies CNSs to practice in one or more of the following specialty areas: Adult Health; Pediatrics; Psychiatric/Mental Health; and Oncology. Clinical nurse specialists are registered professional nurses who have a master's degree in a nursing specialty. They can be certified by national certifying associations, such as the American Nurses Credentialing Center (ANCC). Clinical nurse specialists **DO NOT** have prescriptive authority in New York.

The practice of certified registered nurse anesthetists (CRNA) is not codified in the NYS Nurse Practice Act; that is, their practice does not appear in New York State law. However, certified registered nurse anesthetists are defined in Hospital Code regulations promulgated by the New York State Department of Health. In order to practice as a CRNA in New York, candidates must hold a valid New York registered nursing license, have completed an accredited CRNA education program, and pass a national certification examination. To maintain certification, at least 40 hours of continuing education are required every two years.

### Nurse Midwife

In New York State, there is a separate Midwifery Practice Act, Title VIII, Article 140 of State Education. Only a person licensed under both article one hundred forty and article one hundred thirty-nine may use the title "nurse-midwife". In other words, a person using the title "nurse midwife" must be licensed as *both* a registered professional nurse and as a midwife. According to Title VIII, Article 140, Section 6951 of the Education Law:

The practice of the profession of midwifery is defined as the management of normal pregnancies, child birth and postpartum care as well as primary preventive reproductive health care of essentially healthy women, and shall include newborn evaluation, resuscitation and referral for infants. A midwife shall have collaborative relationships with (i) a licensed physician who is board certified as an obstetrician-gynecologist by a national certifying body or (ii) a licensed physician who practices obstetrics and has obstetric privileges at a general hospital licensed under article twenty-eight of the public health law or (iii) a hospital, licensed under article twenty-eight of the public health law, that provides obstetrics through a licensed physician having obstetrical privileges at such institution, that provide for consultation, collaborative management and referral to address the health status and risks of his or her patients and that include plans for emergency medical gynecological and/or obstetrical coverage. A midwife shall maintain documentation of such collaborative relationships and shall make information about such collaborative relationships available to his or her patients. Failure to comply with the requirements found in this subdivision shall be subject to professional misconduct provisions as set forth in article one hundred thirty of this title.

A licensed midwife shall have the authority, as necessary, and limited to the practice of midwifery, to prescribe and administer drugs, immunizing agents, diagnostic tests and devices, and to order laboratory tests, as established by the board in accordance with the commissioner's regulations. A midwife shall obtain a certificate from the department upon successfully completing a program including a pharmacology component, or its equivalent, as established by the commissioner's regulations prior to prescribing under this section.

## Limited Exemption from Professional Misconduct

On June 22, 2016, Part A of Chapter 70 of the Laws of 2016, was enacted to amend the Education Law by adding a new section 6509-d, which provides a limited exemption from professional misconduct to any person who is licensed under Title VIII of the Education Law and who would otherwise be prohibited from prescribing or administering drugs, to administer an opioid antagonist, such as Naloxone (Narcan), in the event of an emergency (NYSED-OP, 2016).

### Tasks to Be Completed Before You Prescribe in New York State

After the New York State Education Department issues you a certificate to practice as a nurse practitioner (NP) or midwife, you must complete the tasks below in order to prescribe medications.

**1. Obtain a National Provider Identifier (NPI) issued by the US Center for Medicaid and Medicare Services (CMS)**

Federal law requires that health care providers (including NPs) use NPIs on electronic health care transactions (i.e., processing claims, status inquiries, eligibility inquiries). Healthcare providers have several different identification numbers, among them is one for each insurance company they bill. Part of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) provisions include the need for a single standard healthcare provider identifier that would lead to simplification of this process (Health and Human Services Department, 2004). The intent is to help reduce fraud, transaction errors, and cost. To this end, the National Provider Identifier (NPI) system assigns a unique number to every Medicare provider, including nurse practitioners. The plan is for a single identification number, the NPI, to replace all other numbers for a single provider, presumably including the Drug Enforcement Administration (DEA) number. Pharmacies would eventually no longer fill prescriptions without the NPI of the referring provider; there is a national database where a registry search can be done. For more about applying for a NPI, visit: [www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProviderStand/](http://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/NationalProviderStand/). Applications can be submitted online or by regular mail.

**2. Obtain a Federal Drug Enforcement Administration (DEA) Number issued by the US Department of Justice- Drug Enforcement Administration**

An NP must obtain a DEA number in order to prescribe or dispense controlled substances. For more about applying for a DEA number, visit [www.DEAdiversion.USDOJ.gov](http://www.DEAdiversion.USDOJ.gov) or call 1-877-883-5789, 1-800-882-9539 or 212-337-1593. The mailing address for the US Department of Justice Drug Enforcement Administration is: 99 Tenth Avenue, New York, NY 10011.

**3. Complete New York State Department of Health Mandatory Prescriber Education**

Pursuant to Public Health Law §3309-a(3), prescribers licensed under Title 8 of the Education Law in New York to treat humans and who have a DEA registration number to prescribe controlled substances, as well as medical residents who prescribe controlled substances under a facility DEA registration number, are required to complete at least three (3) hours of course work or training in pain management, palliative care, and addiction by July 1, 2017, and once every three (3) years thereafter. The New York State Department of Health (NYSDOH) has published guidance regarding this requirement. The guidance, frequently asked questions (FAQs), and attestation form will be available on the NYSDOH website at [www.health.ny.gov/professionals/narcotic/mandatory\\_prescriber\\_education/](http://www.health.ny.gov/professionals/narcotic/mandatory_prescriber_education/). For more information or questions, please contact the NYSDOH, Bureau of Narcotic Enforcement, by email at [narcotic@health.ny.gov](mailto:narcotic@health.ny.gov). The New York State Mandatory Prescriber Education Guidance online course is available at the web site: <http://www.elearnonline.net/>

**4. Obtain New York State Official Prescription Forms or authorization to prescribe controlled substances from the New York State Department of Health**

An NP must obtain official prescription forms to prescribe controlled substances. For more information about obtaining official prescription forms, contact the New York State Department of Health Bureau of Narcotic Enforcement by telephone 866-811-7957 or 518-402-0708, or check the New York State Department of Health website.

(NYSED-OP, 2017, January 30)

Prescribing Medications

Former Governor George Pataki signed a law aimed at effectively combating prescription fraud, an ever-increasing problem that drives up healthcare costs and threatens the safety of New York's citizens by diverting drugs from legitimate medical use. Article 1, Section 21 of the Public Health Law, requires that **all** prescriptions written in New York (for both controlled and non-controlled substances) be issued on an official New York State prescription form. The new law went into full effect on April 19, 2006.

New York Public Health Law, Article 2-A, Title 3, section 281, Official New York State Prescription Forms requires:

In addition to the requirements of section sixty-eight hundred ten of the education law or article thirty-three of this chapter, all prescriptions written in this state by a person authorized by this state to issue such prescriptions shall be on serialized official New York state prescription forms provided by the department. Such forms shall be furnished to practitioners authorized to write prescriptions and to institutional dispensers, and shall be non-reproducible and non-transferable. The commissioner, in consultation with the commissioner of education, may promulgate emergency regulations for the electronic transmission of prescriptions from prescribers to pharmacists or for ordering and filling requirements of prescription drugs for prescriptions written for recipients eligible for medical assistance pursuant to title eleven of article five of the social services law, for participants in the program for elderly pharmaceutical insurance coverage pursuant to title three of article two of the elder law and for prescriptions written pursuant to article thirty-three of this chapter. Nothing in this section shall prohibit the commissioner in consultation with the commissioner of education from promulgating any additional emergency regulations in furtherance of this subdivision.

Practitioners seeking additional information about this law should visit the New York State Department of Health [Questions and Answers for Practitioners Regarding the New Official Prescription Program](https://www.health.ny.gov/professionals/narcotic/official_prescription_program/questions_and_answers_for_practitioners.htm) at: [https://www.health.ny.gov/professionals/narcotic/official\\_prescription\\_program/questions\\_and\\_answers\\_for\\_practitioners.htm](https://www.health.ny.gov/professionals/narcotic/official_prescription_program/questions_and_answers_for_practitioners.htm).

Since the law took effect in 2006, pharmacies have not filled any prescriptions on non-official prescription pads. All practitioners must register with the New York State Department of Health's Official Prescription Program to receive official prescriptions free of charge. Nurse practitioners must register online for this program by going to [http://www.health.ny.gov/professionals/narcotic/official\\_prescription\\_program/order/](http://www.health.ny.gov/professionals/narcotic/official_prescription_program/order/).

These official prescriptions are to be used for prescribing all medications. Prescriptions for schedule II controlled substances cannot be refilled. A new prescription must be issued. Prescriptions for schedules III and IV controlled substances may be refilled up to five times in six months. Prescriptions for schedule V controlled substances may be refilled as authorized by the practitioner. The prescription pad's design also includes a bar-coded prescription serial number to facilitate entry into pharmacy systems. The location of the "Pharmacist Test Area" to confirm the official prescription's authenticity is located at the bottom left of the prescription. The pharmacist must record his or her signature, pharmacy prescription number, and the date of dispensing.

## **Mandatory Electronic Prescribing**

Governor Andrew Cuomo has signed legislation into law extending the deadline for required e-prescribing of medications for one year, to March 27, 2016. All prescribers should continue to diligently establish their e-prescribing capability as required by the law so that they will be in compliance by the new effective date. (March 18, 2015)

Effective March 27, 2015, a new law will require nurse practitioners, midwives, dentists, podiatrists, physicians, physician assistants and optometrists in New York State ("prescribers") to issue prescriptions electronically directly to a pharmacy, with limited exceptions. The law will not require a prescriber to issue a prescription electronically when:

- Electronic prescribing is not available due to temporary technological or electronic failure;
- The prescriber has a waiver granted by the New York State Commissioner of Health;
- The prescriber reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner; or,
- The prescription will be dispensed at a pharmacy located outside New York State.

The new law requires electronic prescribing for all types of medications (controlled substances and non-controlled substances) and for syringes and other medical devices dispensed at a pharmacy in New York. Information about this law (Public Health Law §281) is available on the New York State Department of Health website. More information on electronic prescribing can be found at this site [www.op.nysed.gov/news/advisory-notice.html#nysdoh](http://www.op.nysed.gov/news/advisory-notice.html#nysdoh).

(NYSED-OP, 2015 March 18)

### How to Write a Prescription

In New York State, nurse practitioners have their own independent prescription forms. As a reminder, the name of the collaborating physician is not required to be on the nurse practitioner's prescription pad. Section 6810(6) of the New York State Education Law requires all prescriptions to include the following:

- ✓ The patient's name, address and age.
- ✓ The date the prescription was written.
- ✓ The name of the medication, dosage form and strength.
- ✓ Directions regarding the quantity to be dispensed or directions for compounding the medications.
- ✓ Directions to the patient regarding frequency and any conditions for taking the medication.
- ✓ The name, address, telephone number, profession, and DEA Number (if applicable) of the prescriber who has written or initiated the prescription.
- ✓ The nurse practitioner's legal signature.
- ✓ Refill directions.
- ✓ This statement: "THIS PRESCRIPTION WILL BE FILLED GENERICALLY UNLESS PRESCRIBER WRITES 'daw' IN THE BOX BELOW".

A prescription for a controlled substance must include the following information:

- ✓ Date of issue;
- ✓ Patient's name and address;
- ✓ Practitioner's name, address, and DEA registration number;
- ✓ Drug name;
- ✓ Drug strength;
- ✓ Dosage form;

- ✓ Quantity prescribed;
- ✓ Directions for use;
- ✓ Number of refills (if any) authorized; and
- ✓ Manual signature of prescriber.

### Blank Prescription

### Correctly Filled Out Prescription

**\*Note: These prescriptions are for demonstration purposes only. Anyone reproducing these prescriptions to gain access to medication will be prosecuted.**

It is important to remember that the prescription is a legal document; therefore, caution must be used in preparing the prescription. It must be written in ink. There should be no alterations. Legibility is critical, particularly because so many medications have very similar names. Avoid abbreviations and ambiguous language. When writing prescriptions, **only** one medication at one dosage can be prescribed per prescription blank.

Take for example, the medication Effexor XR. It is manufactured in 150 mg capsules and 75 mg capsules. If the patient requires Effexor XR 375 mg every morning, the nurse practitioner would have to complete one prescription for Effexor XR 150 mg, take 2 by mouth every morning and then complete a separate prescription for Effexor XR 75 mg, take 1 by mouth every morning, for a total daily dose of 375 mg. Alternatively, the nurse practitioner can prescribe Effexor XR 75 mg; take 5 by mouth every morning for a total daily dosage of 375 mg. See Figure 1 for a visual example.



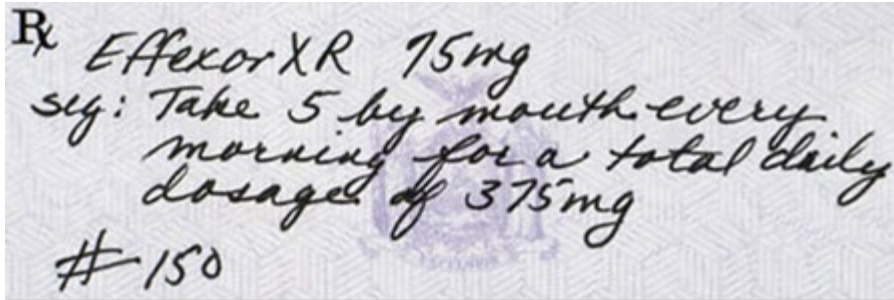


Figure 1. Sample Prescription for Effexor XR 75 mg

### Prescription Refills

In New York State any person authorized to prescribe may authorize a refill on a **non-controlled** prescription. The specific number of refills should be indicated on the prescription blank. Consider indicating the number of refills by writing out the words, rather than placing the Arabic number on the prescription. This may help to prevent possible alterations. Some prescription blanks contain a series of numbers, for example 1, 2, 3, 4, 5, NR. The prescriber can merely circle the correct number, with NR indicating “no refills.” Prescription refills should be limited to a reasonable number, thereby allowing the nurse practitioner to more closely manage the patient’s target symptoms. Refills can be given orally on the telephone and will be discussed further in another section of this course.

### Child Resistant Packaging

Federal law requires that all prescriptions be filled utilizing child resistant packaging (U.S. Consumer Product Safety Commission, 2005). The following are some examples of exemptions:

- Nitroglycerin sublingual tablets
- Isosorbide dinitrate sublingual chewable tablets
- Pancrealipase
- Steroid dose packs
- Certain package sizes as designated by the manufacturer

Patients and prescribers may request that medications not be filled in child resistant packaging. For some persons, particularly the elderly, or those individuals who may have difficulty with this packaging, the nurse practitioner may provide the following direction to the pharmacist: “Dispense in non-tamper proof container.”

### Prescriptions for Hypodermic Needles and Syringes

In New York State, a prescription is required in order to obtain hypodermic needles and syringes. The prescription must be written; it cannot be phoned in. Refills are written for the quantity necessary. Prescriptions are valid for up to two years.

The exception to the above is in an emergency situation where the prescription is immediately needed, with no alternative treatment available and it is not possible to provide a written prescription. In those cases an emergency 10 day supply of needles or syringes can be phoned in, with a written follow-up prescription submitted to the pharmacy within 72 hours. If the pharmacy does not receive the hard copy of the prescription, the pharmacy will indicate that in their records (Public Health Law, Article 33, Part 80, Section 80.68, 2009).

The Expanded Syringe Access Program (ESAP) became effective in New York State in January 2001 and is now a permanent program as of summer 2009 (New York State Department of Health, 2015). This program allows persons over the age of 18 to access 10 or less hypodermic needles and/or syringes from authorized providers *without* a prescription, when disposing of used needles and syringes at registered sites.

Accompanying the clean needles and syringes must be a Safety Insert, which includes the following information:

- The proper use of hypodermic syringes and needles.
- The risk of blood-borne diseases that may result from the use of hypodermic syringes and needles.
- Methods for preventing the transmission or contraction of blood-borne diseases.
- Proper disposal practices for hypodermic syringes and needles.
- The dangers of injection drug use and how to access drug treatment.
- A toll-free number for information on the human immunodeficiency virus.
- A statement that it is legal for persons to possess syringes and needles obtained through the Expanded Syringe Access Demonstration Program (ESAP).

Information on the ESAP may be viewed from:

[https://www.health.ny.gov/diseases/aids/consumers/prevention/needles\\_syringes/esap/overview.htm](https://www.health.ny.gov/diseases/aids/consumers/prevention/needles_syringes/esap/overview.htm).

### Copies of Prescriptions

Copies of prescriptions for **non-controlled** medications may be furnished to patients for informational purposes only. The copy must indicate it is for informational purposes only. Copies of prescriptions for controlled medications may only be furnished to practitioners authorized to write these prescriptions.

### Telephone (oral) Prescriptions

Telephone prescriptions of **non-controlled** substances may be made by authorized prescribers. The federal government allows for an agent of the prescriber to phone in a prescription; however, in New York State only employees of the prescriber may make a telephone prescription of a **non-controlled** substance.

The phoned-in prescription:

- Must be transmitted to a registered pharmacist or a registered pharmacy intern.
- Must contain all of the information that is required on a written prescription.
- Each prescription document or telephone prescription must be examined by a pharmacist and for omissions, ambiguity, completeness, potential unsafe use, and interaction with other medications and contraindications. Where any doubt exists, the pharmacist must contact the prescriber.

The federal Omnibus Budget Reconciliation Act (OBRA) of 1990 placed additional requirements on pharmacists: they must counsel patients regarding medications. This includes information about how the medication is taken, what it interacts with, etc.

Telephone prescriptions of controlled substances may be made for up to a five-day supply of Schedule II, III and V controlled substances, as well as benzodiazepines. Nurse Practitioners may orally prescribe up to a 30-day supply or 100 dosage units, whichever is less, of Schedule IV (non-benzodiazepines) controlled substances. To be valid for dispensing, oral prescriptions for controlled substances must be phoned in by the prescribing practitioner him or herself. Other office personnel are not authorized to phone in a controlled substance prescription to a pharmacist.



## Faxed Prescriptions

The Department of Health advised that faxed orders, including prescriptions, are permitted and must follow the rules and regulations for oral prescriptions. Effective January 2005, faxed prescriptions must be on official New York State prescription forms. Each faxed page must contain only one medication and the prescriber's stamp and signature (Tengeler, 2008).

Faxed prescriptions must meet the following criteria:

- ✓ Must be an original hard copy prescription transmitted by facsimile from the prescriber to the pharmacy.
- ✓ Must be manually signed by the prescriber.
- ✓ And if issued in NY must be on an official New York State prescription form.

Note: Nurse Practitioners faxing official prescriptions for **controlled substances** are required to send the original official prescription to the dispensing pharmacy within 72 hours.

## The Generic Drug Substitution Law

Generic drug substitution offers consumers the ability to cut their prescription drug costs by more than 50 percent by automatically filling the prescription with a suitable generic. Every pharmacy has a list of safe, effective, interchangeable drugs. In some states, the consumer must give permission to substitute, whereas a law exists in other states that make substitution mandatory unless the prescriber indicates Dispense as Written or "DAW" on the prescription.

The following states have mandatory substitution of generic medications (Shrank et al., 2010):

- |                  |                  |                   |
|------------------|------------------|-------------------|
| 1. Florida       | 6. Minnesota     | 11. Tennessee     |
| 2. Hawaii        | 7. Nevada        | 12. Vermont       |
| 3. Kentucky      | 8. New Jersey    | 13. Washington    |
| 4. Maine         | 9. New York      | 14. West Virginia |
| 5. Massachusetts | 10. Rhode Island |                   |

For more information view this Issue Brief produced by the Office of The Assistant Secretary for Planning and Evaluation, here: <http://aspe.hhs.gov/sp/reports/2010/genericdrugs/ib.shtml#apa>.

Be aware that state laws change regularly and to check each state's current law.

## Appropriate Prescribing

NYS has implemented several programs to decrease opioid related diversion, misuse and overdose deaths that are highlighted below.

| NYS Methods to Decrease Opioid-Related Overdoses   |
|--|
| ✓ I-STOP Prescription Monitoring Program   |
| ✓ E-prescribing  |
| ✓ Legislation requiring prescriber education: NYS Bills S8139/A10727                                   |
| ✓ Require CME on pain management by physicians and other healthcare providers                          |
| ✓ Mandate insurance coverage for needed inpatient treatment services                                   |
| ✓ Limit initial opioid prescriptions from 30-day supplies to 7-day supplies for acute, non-cancer pain |
| ✓ Require pharmacists to provide additional education and counseling to those receiving opioids        |

### Requirements for Prescribing Controlled Substances

The prescribing of controlled substances in New York State can be found in Public Health Law, Article 33, Title 10, Administrative Rules and Regulations, Part 80 – Rules and Regulations on Controlled Substances. The controlled substance schedule includes medications with a high abuse, misuse or addiction potential. They are divided into five categories, outlined in Table 1.

### Federal Requirements for Prescribing

A prescription for a controlled substance must include the following information:

1. Date of issue – Patient's full name and address
2. Practitioner's full name, address, and DEA registration number
3. Drug name
4. Drug strength
5. Dosage form
6. Quantity prescribed
7. Directions for use

Per the DEA, prescriptions must be written in ink and signed by the practitioner. In NYS, controlled substances must be electronically prescribed unless there is a waiver in place. A prescription for a controlled substance may only be issued by a physician, dentist, podiatrist, veterinarian, nurse practitioner, physician assistant or other registered practitioner who is:

1. Authorized to prescribe controlled substances by the jurisdiction of licensure
2. Registered with DEA or exempted from registration via Public Health Service, Federal Bureau of Prisons or military personnel
3. An agent or employee of a hospital or other institution acting in its normal course of business or employment under the registration of the hospital or institution

The lists of Schedule II controlled substances are issued by the federal government and may vary by individual state requirements.

## Patient Records

Prescribers must be careful to keep patient records for any patient that they prescribe for in clinical practice. NYS Law 80.62 mandates prescribers shall maintain a written patient record to include administration, dispensing and prescribing of all controlled substances. The record must contain sufficient information to justify the diagnosis and warrant the treatment. Documentation at a minimum must include the following information: patient identification data; chief complaint; present illness; physical examination as indicated; and diagnosis. In addition, it is the responsibility of the prescriber to be knowledgeable and adhere to state and federal prescribing laws.

Visit the following website to review NYS Law 80.62: <https://regs.health.ny.gov/content/section-8062-use-controlled-substances-treatment>.

Visit the following website to review Federal requirements for prescribing controlled substances, Federal Controlled Substance Act: <https://www.deadiversion.usdoj.gov/21cfr/21usc/index.html>.

## Prescribing Controlled Substances in NYS

Prescribing laws addressing prescribing of controlled substances in New York State can be found in Public Health Law, Article 33, Title 10, Administrative Rules and Regulations, Part 80 – Rules and Regulations on Controlled Substances.

Visit the following website to review the document in entirety:  
[https://www.health.ny.gov/regulations/controlled\\_substance/part/80/docs/80.pdf](https://www.health.ny.gov/regulations/controlled_substance/part/80/docs/80.pdf)

### **Additional NYS & FEDERAL Controlled Substances Regulations**

To prescribe controlled substances, the practitioner must be registered with the Federal Drug Enforcement Agency (DEA) and have obtained a DEA number.

Controlled substances must be prescribed for legitimate medical purposes only, in dosages that are therapeutically sound and recognized as sufficient for proper treatment.

Controlled Substances must not be prescribed prior to examination of the patient.

Practitioners are not allowed to prescribe controlled substances for themselves.

No prescriptions can be written or filled for controlled substances in Schedule I.

All prescriptions for controlled substances must be filled within 30 days of the date of the prescription written by the prescriber.

No additional prescriptions or refills may be issued by the prescriber to a patient for the same controlled substance that has already been written unless the patient has exhausted all but a 7-day supply of controlled substance.

## Additional Resources for NYS Prescribers

Visit the following website to review NYS Law §6810. Prescriptions:  
<http://www.op.nysed.gov/prof/pharm/article137.htm#sect6810>

Visit the following website to review NYS E-Prescribing:  
[https://www.health.ny.gov/professionals/narcotic/electronic\\_prescribing/](https://www.health.ny.gov/professionals/narcotic/electronic_prescribing/)

For further inquiries and clarification, contact the *NYS Prescription Monitoring Program* and *E-Prescribing Help-Desk* at 1-866-811-7957.

The controlled substance schedule includes medications with a high abuse, misuse or addiction potential. They are divided into five categories that are outlined in Table 1 below.

| <b>Table 1. CONTROLLED SUBSTANCE SCHEDULE</b> |  |  |
|---|--|--|
| <b>Schedule</b>                               | <b>Medications</b>   | <b>Regulations</b>   |
| <b>I.</b>                                     | These are medications that have no accepted therapeutic use, and a high potential for abuse, such as Heroin, Mescaline, Ecstasy, Peyote.<br><br>Exception: Medical marijuana (in certain states only - check the specific states current law, as laws are changing frequently)   | Prescriptions are NEVER written for CI.  |
| <b>II.</b>                                    | These medications include narcotics, amphetamines, barbiturates, stimulants and anabolic steroids. Schedule II medications have the high potential for abuse, though less abuse potential than Schedule I drugs, with use potentially leading to severe psychological or physical dependence. Drugs such as Hydrocodone, Methadone, Hydromorphone, Demerol®, Fentanyl, Ritalin®, Morphine, Codeine, Oxycodone, Cocaine | CII Anabolic Steroids, Max 30-day supply. NO REFILLLS  |
| <b>III.</b>                                   | These medications are combinations of schedule II and non-controlled medications, and includes certain barbiturates. They are drugs that have moderate to low potential for physical and psychological dependence. Drugs such as Tylenol® with Codeine, Ketamine, Anabolic steroids, Testosterone, Buprenorphine, Marinol®   | CIII Max 30-day supply, Max 5 refills / 6 months - If indicated  |
| <b>IV.</b>                                    | These medications include long acting barbiturates, such as phenobarbital, some analgesics and benzodiazepines which have low potential for abuse and low risk of dependence. Examples are Xanax®, Darvon®, Valium®, Ativan®, Ambien®, Tramadol.   | CIV <u>Benzodiazepines</u> , Maximum 30-day supply, NO REFILLS<br><br>All other CIV Max 30-day supply, Max 5 refills / 6 months - If indicated |
| <b>V.</b>                                     | These medications include syrups such as narcotic antitussives. These drugs have the lowest, of all scheduled drugs, potential for abuse and contain limited quantities of certain narcotics. Examples include Lomotil®, Lyrica®, Robitussin AC®.  | CV Max 30-day supply, Max 5 refills / 6 months - If indicated  |

Emergency Oral Prescriptions for Schedule II Medications

An emergency is defined as occurring when:

- The immediate administration of the drug is necessary for proper treatment.
- No alternative treatment is available.
- It is not possible for the practitioner to provide a written prescription for the drug at the time.

In an emergency, as defined above, a practitioner may orally prescribe a Schedule II medication with the following conditions:

- The quantity prescribed and dispensed cannot exceed a 5-day supply of the medication.
- A written official New York State prescription is delivered to the pharmacist within 72 hours.
- The follow-up prescription contains the words: “Authorization for Emergency Dispensing” in addition to all of the other required information.

**Please note by NYS law, the pharmacist must notify the New York State Department of Health if the follow-up prescription is not received within seven (7) days of dispensing the medication.**

Emergency Oral Prescriptions for Schedule III, IV and V Medications

Telephone orders for prescriptions for Schedule III, IV (**except** benzodiazepines) and V medications are acceptable in New York State. The receiving pharmacist must put the oral prescription into written format, or to the extent authorized by federal requirements, to an electronic record, and include the name and address of the prescriber, the patient’s name and address, date on which the controlled substance was ordered, the name and quantity of controlled substance prescribed, directions for use, and the fact that it is a telephone order.

The quantity prescribed orally cannot exceed a five day supply of Schedule III and V medications. Schedule IV medications cannot exceed a 30-day supply or 100 dosage units, whichever is less if the substances were used in accordance with the directions for use.

A written prescription must follow the oral prescription with 72 hours either as a written or as an electronic prescription.

If the pharmacist fails to receive the prescription, she or he will record on the written notation of the oral prescription: “Written prescription not received,” then sign and date it. The pharmacist does **not** need to report the practitioner to the New York State Department of Health.

When the written prescription is received as follow-up to an oral prescription, the pharmacist will indicate that it is a follow-up prescription.

It is important to note that NYS Law **supersedes** Federal law. Individual states may elect to enforce additional rules when prescribing.

| Federal   | New York State  |
|---|---|
| Allows controlled Rx’s to be communicated to a pharmacist by an employee or agent of the individual PR.                             | <b>Only the PR may orally prescribe controlled substances to a pharmacist - In any venue!</b> |
| The Federal CSA states that a prescriber may issue 3 prescriptions for the same controlled substance at the same time to a patient. | <b>No.</b> Has Condition Codes.   |
| Electronic prescribing - optional   | <b>Electronic prescribing - Mandatory</b>   |

For example, the Federal Controlled Substance Act states that a prescriber may issue three (3) prescriptions for the same controlled substance at the same time to a patient. This is NOT allowed in NYS, rather condition codes are used for specific disorders to issue additional prescriptions. Review Table 2, which highlights NYS Condition Codes.

| <b>Table 2. Medical Conditions/Codes for Extended Controlled Substance Supply</b> |                     |  |
|---|---------------------|--|
| <b>CODE</b>   | <b>SUPPLY LIMIT</b> | <b>MEDICAL CONDITION</b>   |
| A   | 3 months            | Panic Disorders  |
| B   |                     | Attention Deficit Hyperactivity Disorder   |
| C   |                     | Chronic debilitating neurological conditions characterized as a movement disorder or exhibiting seizure, convulsive or spasm activity  |
| D   |                     | Relief of pain in patients suffering from diseases known to be chronic and incurable   |
| E   |                     | Narcolepsy   |
| F   | 6 months            | Anabolic steroids used to treat hormone deficiency states in males, gynecologic conditions that are responsive to treatment with anabolic steroids or chorionic gonadotrophin, metastatic breast cancer in women, anemia and angioedema. |

### Medical Marijuana

As set forth in 10 NYCRR §1004.1(a), practitioners seeking to issue certifications for their patients to receive medical marijuana products must meet the following criteria:

Be qualified to treat patients with one or more of the serious conditions set forth in Public Health Law §3360(7) or as added by the Commissioner.

The law currently identifies the following severe, debilitating or life threatening conditions: cancer, HIV infection or AIDS, amyotrophic lateral sclerosis (ALS), Parkinson's disease, multiple sclerosis, spinal cord injury with objective neurological indication of intractable spasticity, epilepsy, inflammatory bowel disease, neuropathy, chronic pain as defined by 10 NYCRR §1004.2(a)(8)(xi), Huntington's disease.

Patients must also have one of the following associated or complicating conditions: cachexia or wasting syndrome, severe or chronic pain, severe nausea, seizures, or severe or persistent muscle spasms.

“Prescribers of medical marijuana must be licensed, in good standing as a physician and practicing medicine, as defined in article one hundred thirty one of the Education Law in New York State, or be certified, in good standing as a nurse practitioner and practicing, as defined in Article 139 of the Education Law, in New York State, or be licensed, in good standing as a physician assistant and practicing in New York State, as defined in article 131-B of the Education Law, under the supervision of a physician registered with the New York State medical marijuana program;” Prescribers also must complete a four-hour course approved by the Commissioner; and need to register with the New York State Department of Health. (NYSDOH, 2018)

Visit the following website to review: *New York State Practitioner Education - Medical Use of Marijuana Course*: <https://www.theanswerpage.com/new-york-state-practitioner-education-medical-use-marijuana>

Visit the following website to review: FEDERAL REGISTER, Vol. 81, (156). (2016, August 12). Part IV: Department of Justice, Drug Enforcement Administration: Denial of petition to initiate proceedings to reschedule marijuana [https://www.deadiversion.usdoj.gov/fed\\_regs/rules/2016/fr0812.pdf](https://www.deadiversion.usdoj.gov/fed_regs/rules/2016/fr0812.pdf)

### The Expanded Syringe Access Program

The Expanded Syringe Access Program (ESAP) became effective in New York State in January 2001 and is now a permanent program as of summer 2009 (NYSDOH, 2015). This program allows persons over the age of 18 to access ten (10) or less hypodermic needles and/or syringes from authorized providers without a prescription, when disposing of used needles and syringes at registered sites. Visit the following website to review the ESAP:

[https://www.health.ny.gov/diseases/aids/consumers/prevention/needles\\_syringes/esap/overview.htm](https://www.health.ny.gov/diseases/aids/consumers/prevention/needles_syringes/esap/overview.htm)

Accompanying the clean needles and syringes must be a Safety Insert, which includes the following information:

1. The proper use of hypodermic syringes and needles.
2. The risk of blood-borne diseases that may result from the use of hypodermic syringes and needles.
3. Methods for preventing the transmission or contraction of blood-borne diseases.
4. Proper disposal practices for hypodermic syringes and needles.
5. The dangers of injection drug use and how to access drug treatment.
6. A toll-free number for information on the human immunodeficiency virus.
7. A statement that it is legal for persons to possess syringes and needles obtained through the Expanded Syringe Access Demonstration Program.

(NYSDOH, 2013)

### Prescription Monitoring Program (PMP) Registry

NYS implemented a prescription monitoring program registry called the Internet System for Tracking Over-Prescribing (I-STOP) in 2013.

Prescribers must consult the registry prior to prescribing or dispensing any controlled substance on schedule II, III or IV. It is *optional* to consult registry for Schedule V. The prescriber may check the PMP registry up to 24 hours in advance of prescribing. Additionally, prescribers must document that they've checked the PMP. If the PMP registry is not consulted, it should be documented why not, and, must be an approved exception.

| Exceptions to duty to Consult I-STOP   |
|--|
| <ol style="list-style-type: none"><li>1) Veterinarians</li><li>2) Methadone programs</li><li>3) A practitioner administering a controlled substance</li><li>4) A practitioner prescribing or ordering a controlled substance for use on the premises of an institutional dispenser</li><li>5) A practitioner prescribing a controlled substance in the emergency department of a general hospital, provided the quantity of a controlled substance does not exceed a five-day supply if the controlled substance were used in accordance with the directions for use</li><li>6) A practitioner prescribing a controlled substance to a patient under the care of a hospice</li><li>7) a practitioner when: it is not reasonably possible for the practitioner to access the registry in a timely manner, no other practitioner or designee authorized to access the registry, pursuant to paragraph of this subdivision, is reasonably available and the quantity of controlled substance prescribed does not exceed a five-day supply if the controlled substance were used in accordance</li></ol> |

with the directions for use

- 8) A practitioner acting in compliance with regulations that may be promulgated by the commissioner as to circumstances under which consultation of the registry would result in a patient's inability to obtain a prescription in a timely manner, thereby adversely impacting the medical condition of such patient
- 9) A situation where the registry is not operational as determined by the department or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation.
- 10) A practitioner who has been granted a waiver due to technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner, pursuant to a process established in regulation, and in the discretion of the commissioner.

(Medical Society of the State of New York, 2013)

### Missing Prescriptions

Prescribers who use the PMP registry often will ask, "Why can I not find a patient I know had a controlled prescription filled?" Several factors can affect for the prescription is cataloged. The format how the information is entered is name specific. For example, a patient Patricia may have had her name inputted in several ways: Pat vs Patricia vs Patrice vs. Patty vs Patti.

There also may be a transmission error by the pharmacy of the wrong prescribers name or DEA number. Electronic prescribing allows you to review the pharmacy you transmitted the electronic prescription to. If you feel there is an error, best practice is to contact the pharmacy directly.

Visit the following website to review NYS Internet System for Tracking Over-Prescribing (I-STOP) E Prescribing Updates, as well as to review the NYS Prescription Monitoring Program:  
[https://www.health.ny.gov/professionals/narcotic/prescription\\_monitoring/](https://www.health.ny.gov/professionals/narcotic/prescription_monitoring/)

### NYS E-Prescribing

New York Education Law §6810 - all prescriptions must be transmitted electronically NYS is the only state to mandate e-prescribing of controlled and non-controlled substances. This does not include over the counter medications and herbals. Federal law currently states that electronic prescribing is optional. Remember that state legislation can apply additional regulations as compared to federal mandates.

### E-Prescribing Controlled Substances

To sign a controlled substance prescription the electronic prescription application must require the PR to authenticate using two of the following three factors:

1. Something only the prescriber knows such as a password or response to a challenge question. It is a Felony to give password to someone else.
2. Something the prescriber is, for example biometric data such a fingerprint or iris scan.
3. Something that the prescriber has such as a device (hard token) separate from the computer to which the prescriber is gaining access.



### NYS E-Prescribing

1. Practitioner must use e-prescribing software that has been certified and audited in accordance with US Drug Enforcement Agency (DEA) regulations. The EPCS software application meets all the federal security requirements which can be found on the DEA website:  
[https://www.deadiversion.usdoj.gov/ecommm/e\\_rx/](https://www.deadiversion.usdoj.gov/ecommm/e_rx/)
2. The practitioner must also complete an identity proofing process and obtain two factor authentications in accordance with the DEA regulations.
3. Practitioner must register the controlled substance e-prescribing software with the Bureau of Narcotic Enforcement (BNE). The registration with BNE needs to be updated at least every two years or whenever the DEA requires a new third party audit of the software, whichever occurs first.
4. If the practitioner works at multiple locations and different e-prescribing software is used at such sites, the practitioner will need to register each software program used to prescribe controlled substances.
5. A prescriber must make a notation in the patient's medical record indicating when he/she has issued a paper prescription noting the applicable statutory exception for why an e-prescription was not possible.
6. Must include the prescribers NPI, digital signature and delineate brand or generic.

Source: NYSDOH Bureau of Narcotic Enforcement (2015)

### Exceptions NYS E-Prescribing

After March 27, 2016, it became mandatory for practitioners to issue electronic prescriptions for controlled and non-controlled substances. Official New York State Prescription forms may only be used in the event of a power outage or technical failure or if the practitioner meets criteria for an exception.

### Exceptions NYS E-Prescribing

The e-prescribing regulations include several exceptions to the mandate including when:

1. Prescriptions are issued by veterinarians;
2. Electronic prescribing is not available due to temporary technological or electronic failure;
3. Prescriptions issued by a practitioner under circumstances where the practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition. In addition to these circumstances, the quantity of controlled substances cannot exceed a five-day supply if the controlled substance were used in accordance with the directions for use;
4. Prescriptions issued by a practitioner are to be dispensed by a pharmacy located outside the state. This includes federal institutions such as VA facilities, Indian Reservations, Military Bases; and or
5. Practitioners have received a waiver from the requirement to use electronic prescribing.

Source: NYSDOH Bureau of Narcotic Enforcement (2016)

### NYS Commissioner of Health Blanket Waivers

The NYS Commissioner of Health has instituted blanket waivers effective until October 31, 2018, according to PHL §281(3) to include the following: A prescription containing certain elements required by

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the Federal Food and Drug Administration (FDA) such as an attachment; approved protocols under expedited partner therapy; approved protocols under collaborative drug management; response to a public health emergency that would allow a nonpatient specific prescription; approved research protocol; and a non-patient specific prescription for an opioid antagonist.

Visit the following website to review the waivers in full:

[https://www.health.ny.gov/professionals/narcotic/electronic\\_prescribing/](https://www.health.ny.gov/professionals/narcotic/electronic_prescribing/)

*If the Prescription is Incomplete:*

If the prescription prepared by the practitioner is incomplete, the practitioner may provide the missing information to the pharmacist and authorize the pharmacist to enter the missing information onto the prescription. The pharmacist cannot complete missing information under the following conditions when:

- The prescription is not signed by the prescriber.
- The prescription is missing the date.
- The name of the controlled substance is not specified.
- The quantity of controlled substance is not specified.
- The name and address of the patient is missing.

In cases where the prescription is incomplete, the pharmacist will then write the date she or he received authorization from the practitioner on the back of the prescription form and then sign it.

*When a Practitioner wishes to change information on the Prescription*

When the practitioner wishes to change information on the prescription, the practitioner may authorize the pharmacist to change information on a controlled substance prescription.

Changes to the prescription **cannot** occur under the following conditions when:

- The practitioner's signature is missing.
- The date is missing.
- The name of the medication is missing.
- The name of the patient is missing.

In cases of changes to a prescription, the pharmacist receiving the information will write the date the information change was received on the back of the prescription, the reason for the change and will sign her or his name. The change will be made on the face of the prescription by the pharmacist, who will then initial the change.

## Safe Prescribing & Preventing Errors in Written Prescriptions

There continues to be considerable focus in the media on the alarming rate of medical and nursing errors. Errors occur in every healthcare setting. According to a classic study released by the Institute of Medicine (IOM) in 1999, *To Err is Human: Building a Safer Health System*, up to 7,000 deaths per year can be attributed to mistakes made in prescribing or dispensing medications. Medication errors cost the nation billions of dollars in lost income, disability, and healthcare expenses.

The same 1999 IOM report attributed approximately 100,000 hospital deaths per year to medical errors. Continuing to support the IOM report, in 2016, the BMJ published a study determining medical error's to be the third leading cause of death in the U.S. (Makary & Daniel).

Multiple errors can occur in writing prescriptions. Some of the common errors include:

### 1. Errors of omission

- Incomplete information can take many forms. Missing information can include the date, the patient's name, address, age, the quantity of medication to be dispensed, the strength of dose, or failure to provide complete directions to the patient.
- Medication nomenclature contributes to omissions such as prefixes or suffixes that describe a brand name medication, for example: Wellbutrin® SR versus Wellbutrin®.
- Frequency of administration may be missing, particularly with prn medications. For example, an incorrect prescription would be for Tylenol® 325 mg po prn pain; the correct prescription is Tylenol® 325 mg q 4h prn pain.
- Failing to prescribe in specific units of measurement is another omission. For example, it is correct to prescribe or order calcium gluconate 4.8 mEq IV every day; ordering calcium gluconate one amp IV every day is incorrect.

### 2. Inappropriate dose

- While under-dosing perpetuates the patient's health problems that necessitated treatment, and leads to needless suffering, expense and time, it is overdosing that is more dangerous.

### 3. Illegibility

- This can be especially dangerous since illegibility can lead to misinterpretation and non-compliance.
- Misinterpretation can occur related to directions for taking the medication, incorrect dose, taking a medication for the incorrect indication or incorrect times.
- Medication names that are similar contribute to the problem of illegible orders. For example: Inderal® 40 mg po q 6h versus Isordil® 40 mg po q 6h.

**Note:** Visit the Institute for Safe Medication Practices for more examples of look-alike and sound-alike medication names at: <http://www.ismp.org/Tools/confuseddrugnames.pdf>.

### 4. Abbreviations

Especially when combined with illegible handwriting, abbreviations are often a source of errors.

The 2011 National Patient Safety Goals of The Joint Commission include new documentation guidelines (The Joint Commission, 2011). These guidelines include the elimination of the use of some abbreviations, symbols and acronyms that have been traditionally used healthcare documentation.

The guidelines apply to all handwritten clinical documentation related to a specific patient, including progress notes, consultation reports, operative reports, order forms, and documentation. Upper and lower case formats and specific punctuation are not relevant in these new guidelines; this new list should be used.

If the nurse practitioner is employed in a setting that is accredited by The Joint Commission, then the information provided in Tables 3 and 4 are applicable. However, even if the nurse practitioner is employed in a setting that is not accredited by The Joint Commission, utilizing these changes should help to clarify written communication, including on prescriptions.

It is important to check The Joint Commission website ([www.jointcommission.org](http://www.jointcommission.org)) frequently for the most up-to-date list of acceptable abbreviations, symbols and acronyms. These lists are continuously being updated and changed so referring to the website is beneficial for your practice.

| <b>Table 3. The Joint Commission’s Official “Do Not Use” List</b>   |  |                            |
|---|--|----------------------------|
| <b>Do Not Use</b>   | <b>Potential Problem</b>   | <b>Use Instead</b>         |
| U, u (unit)   | Mistaken for “0” (zero), the number “4” (four), or “cc”            | Write “unit”               |
| IU (International Unit)   | Mistaken for “IV” (intravenous) or the number “10” (ten)           | Write “International Unit” |
| Q.D., QD, q.d., qd (daily)  | Mistaken for each other  | Write “daily”              |
| Q.O.D., QOD, q.o.d., qod (every other day)  | Period after the “Q” mistaken for “I” and the “O” mistaken for “I” | Write “every other day”    |
| Trailing zero (X.0 mg)*   | Decimal point is missed  | Write “X mg”               |
| Lack of leading zero (.X mg)  |  | Write “0.X mg”             |
| MS  | Can mean morphine sulfate or magnesium sulfate                     | Write “morphine sulfate”   |
| MSO <sub>4</sub> , MgSO <sub>4</sub>  | Confused for one another   | Write “magnesium sulfate”  |
| <p><b>Note:</b> This list applies to all orders and all medication-related documentation that is handwritten (including free-text computer entry) or on pre-printed forms.</p> <p><b>*Exception:</b> A “trailing zero” may be used only where required to demonstrate the level of precision of the value being reported, such as for laboratory results, imaging studies that report size of lesions, or catheter/tube sizes. It may not be used in medication orders or other medication-related documentation.</p> <p><b>Development of the “Do Not Use” List</b><br/>           In 2001, The Joint Commission issued a Sentinel Event Alert on the subject of medical abbreviations. A year later, its Board of Commissioners approved a National Patient Safety Goal requiring accredited organizations to develop and implement a list of abbreviations not to use. In 2004, The Joint Commission created its “Do Not Use” List to meet that goal. In 2010, NPSG.02.02.01 was integrated into the Information Management standards as elements of performance 2 and 3 under IM.02.02.01.</p> <p>Source: The Joint Commission (2017)</p> |  |                            |

| Table 4. Additional Abbreviations, Acronyms and Symbols<br>(For <i>possible</i> future inclusion in the Official “Do Not Use” List) |   |  |
|---|---|--|
| Do Not Use  | Potential Problem   | Use Instead  |
| > (greater than)<br>< (less than)   | Misinterpreted as the number 7 (seven) or the letter “L”;<br>confused for one another | Write “greater than”<br>Write “less than”                |
| Abbreviations for drug names  | Misinterpreted due to similar abbreviations for multiple drugs                        | Write drug names in full                                 |
| Apothecary units  | Unfamiliar to many practitioners;<br>confused with metric units                       | Use metric units   |
| @   | Mistaken for the number 2 (two)   | Write “at”   |
| cc (cubic centimeter)   | Mistaken for U (units) when poorly written  | Write “mL” or “ml” or<br>“milliliters” (mL is preferred) |
| µg (micrograms)   | Mistaken for “mg” (milligrams) resulting in one thousand-fold overdose                | Write “mcg” or “micrograms”                              |
| Source: The Joint Commission (2011)   |   |  |

#### 5. Decimal errors

- This includes accidental misplacement, calculation errors, writing lightly and faint reproduction on multiple copies of prescriptions.
- **Always place a zero before a decimal point** and never use a zero after a decimal point. For example, a prescriber intends for a pediatric patient to receive one-half milligram of morphine for pain relief. The pharmacist could easily misread the order as “5mg” if written as “.5mg”. Write the **correct** manner of “**0.5mg**”.
- Another safeguard, especially in pediatrics, is to list the dose in both milligrams and micrograms, such as: 0.5mg (500 mcg).

#### 6. Ambiguous orders

- Orders must be written to avoid more than one interpretation. For example: Zoloft® ½ tab 50 mg po every day. Does this mean ½ of a 100 mg tablet resulting in 50 mg or ½ of a 50 mg tablet, resulting in 25 mg?

#### Tall Man Lettering: Help for Look-Alike/Sound-Alike Medications

There are several medications with names that look alike when written, and sound alike when spoken. This is an area of concern when writing, faxing, or phoning in prescriptions. Most of the drug reference books published today have lists of sound-alike/look-alike drug names.

The Food and Drug Administration (FDA) and Institute for Safe Medication Practices (ISMP) have been promoting the use of new labeling to decrease confusion when reading drug names (ISMP, 2008). The use of “tall man” lettering helps to reduce confusion of look-alike/sound-alike drugs by using a combination of lower-case and upper-case lettering. This manner of lettering draws attention to otherwise similar drug names thereby helping to avoid dispensing the wrong drug. This is not mandated when writing a prescription, but it is useful.

For example, under the FDA's system, to reduce the confusion between chlorproMAZINE (a tranquilizer) and chlorproPAMIDE (an antidiabetic medication), the last six letters of the word are capitalized. Cohen (2009) also discusses the following examples:

**LaMICtal** (anti-epileptic) versus **LamISIL** (antifungal)  
**HumaLOG** (insulin) versus **HumuLIN** (insulin)

The ISMP website includes a listing of FDA-approved generic drug names with tall man letters at: <http://www.ismp.org/Tools/tallmanletters.pdf>. You can also access a complete listing of look-alike/sound-alike drug names at: <http://www.ismp.org/Tools/confuseddrugnames.pdf>.

## **Conclusion**

The State of New York authorizes multiple professionals to prescribe medications. Nurse practitioners and midwives are among those professionals with “full prescriptive authority” who may prescribe medications including controlled substances. Nurse practitioners and midwives practice independently under his or her license and are responsible for balancing quality of care with cost of drugs.

This course has provided the information that nurse practitioners and midwives need in order to prescribe medications in New York State in a lawful manner. It is advisable to incorporate evidence-based treatments when prescribing cost-effective medications. Nurse practitioners and midwives should acquire the knowledge of prescription drug costs in their geographic region of practice in order to ensure cost-efficient care and to encourage patient compliance with their medication regimen.

## Resources

### **American Association of Nurse Practitioners**

A national, non-profit membership organization that supports nurse practitioners to provide accessible, high quality healthcare to the nation.

<https://www.aanp.org/>

### **Bureau of Narcotic Enforcement (BNE)**

Responsible for protecting the public health by combating the illegal use and trafficking of prescription controlled substances. The Bureau provides millions of secure official New York State prescriptions annually to over 95,000 prescribing practitioners across the state.

<http://www.health.state.ny.us/professionals/narcotic/>

### **Drug Enforcement Administration (DEA)**

Grants licenses to physicians, nurse practitioners and other medical professionals that allow them to prescribe and dispense medication to individuals who need it. Each person is given a unique number. To apply, look for Form 222a on their website.

[www.deadiversion.usdoj.gov](http://www.deadiversion.usdoj.gov)

### **Food and Drug Administration**

Find drug safety and medication error information.

<https://www.fda.gov/Drugs/default.htm>

### **Health and Medicine Division (HMD) *previously the Institute of Medicine (IOM)***

The HMD is a division of the National Academies of Sciences, Engineering, and Medicine (the National Academies). The Academies are private, nonprofit institutions, which serves as adviser to the nation to improve health. Find “the five rights”, high alert medications, and tall man lettering.

<http://www.nationalacademies.org/hmd/>

### **Institute for Safe Medication Practices (ISMP)**

A non-profit organization educating the healthcare community and consumers about safe medication practices. A listing of FDA-approved generic drug names with tall man letters is available from their website: [www.ismp.org](http://www.ismp.org).

Also, find a complete list of look-alike/sound-alike drug names available from ISMP at:

<http://www.ismp.org/Tools/confuseddrugnames.pdf>.

### **National Provider Identifier Database NPI Registry Search**

[www.hmedata.com/npi.asp](http://www.hmedata.com/npi.asp)

### **New York State Association of Licensed Midwives**

An organization that speaks with one voice to legislators, to managed care organizations, and to other professionals dealing with the issues which are unique to midwives in New York.

<http://www.nysalm.org/>

### **New York State Department of Health**

Find form DOH-250 and how to apply for official prescription program order forms.

[www.health.state.ny.us/](http://www.health.state.ny.us/)

### **New York State Department of Health**

Part 80 – Rules and Regulations on Controlled Substances

[www.health.ny.gov/regulations/controlled\\_substance/part/80/docs/80.pdf](http://www.health.ny.gov/regulations/controlled_substance/part/80/docs/80.pdf)

### **New York State Education Department**

Title VIII Education Law can be found here.

[www.nysed.gov](http://www.nysed.gov)



**New York State Office of the Professions**

Operates under the New York State Education Department under Regents direction. Administers professional regulation and is assisted by the twenty-nine [State Boards](#) for the Professions.  
[www.op.nysed.gov](http://www.op.nysed.gov)

**The Nurse Practitioner Association New York State**

Find Scope of Practice, Title VIII Education Law, and how to apply for prescriptive privileges.  
<http://thenpa.org>

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## NYS Nurse Practitioners and Midwives: Prescribing Information

### Course Exam

After studying the downloaded course and completing the exam, you need to enter your exam answers ONLINE; answers cannot be answered and graded on this downloadable version of the course. To enter your answers return to e-learn's website, [www.elearnonline.net](http://www.elearnonline.net) and click on the Login/My Account button. Next, login using your username and password, follow the prompts to access the course material, and proceed to the course exam.

**Note:** Contact hours/CEUs will be awarded for this online course until **May 29, 2021**.

1. Nurse Practitioners in New York State are able to independently prescribe medication, including controlled substances.
  - A. True
  - B. False
2. All of the following must be included on a written prescription EXCEPT:
  - A. Name of the nurse practitioner
  - B. Address of the nurse practitioner
  - C. Name of the collaborating physician
  - D. New York State nurse practitioner certification number
3. New York State law requires the following medications to be prescribed utilizing the official NYS Prescription form:
  - A. Schedule I medications only
  - B. Schedule II medications and benzodiazepines from Schedule IV
  - C. Schedule II, III, IV, and V medications
  - D. All prescription medications
4. By New York State law, no prescriptions are allowed to be written or filled for controlled substances in "Schedule I" category.
  - A. True
  - B. False
5. You initially write a prescription to read "**Hydrochlorothiazide** ½ tab 50mg po everyday". The patient asks you: "Does this mean one-half of a 100mg tablet to yield 50mg, or do you mean one-half of a 50mg tablet to yield 25mg?" Assuming that you mean for the patient to have 25mg daily, and the tablet comes in 50mg, how could you re-write the prescription to clarify this ambiguous order?
  - A. Hydrochlorothiazide ½ 50mg po everyday
  - B. Hydrochlorothiazide 25mg po qd
  - C. Hydrochlorothiazide 50mg tab, ½ tab (25mg), po daily
  - D. Hydrochlorothiazide ½ tab QD

6. In the event of an emergency, limited exemption from professional misconduct is offered to any person who is licensed under Title VIII of the Education Law and who would otherwise be prohibited from prescribing or administering drugs, to administer an opioid antagonist, such as Naloxone (Narcan).
  - a. True
  - b. False
  
7. You are the nurse practitioner working in a busy cardiology practice late on Friday afternoon. A patient phones your office asking for a renewal of his water pill. A review of his medical record shows that he has been on furosemide 20mg daily but that he has not been seen or examined by a provider in the practice for over a year. You advise the patient that:
  - a. You will phone in the prescription right away.
  - b. NYS law advises that you are unable to prescribe the renewal until he is examined.
  - c. He must stop by the office to pick up the prescription in person, since phoned or faxed prescriptions are illegal.
  - d. You are not able to prescribe medication without a physician's authorization.
  
8. You are a new nurse practitioner who just phoned in a prescription to the pharmacist for a patient to receive a benzodiazepine. This prescription may be filled, but if the pharmacist does not receive a follow-up written prescription from you within 72 hours, the pharmacist must:
  - a. Document that the prescription is missing and file it for five years.
  - b. Immediately contact the Commissioner of Health to investigate.
  - c. Fill in a prescription blank to cover the missing prescription.
  - d. Document that the prescription was not received and notify the Department of Health.
  
9. Federal law requires that all prescriptions be filled in tamper-proof packaging, other than for selected exemptions and when a specific request is made by the patient or prescriber for non-tamper proof packaging.
  - a. True
  - b. False
  
10. In New York State, the nurse practitioner must apply for prescriptive privileges through the:
  - a. Department of Health
  - b. American Academy of Nurse Practitioners
  - c. Commissioner of Education
  - d. Attorney General's Office