

§13786-A. Security requirements; rules

1. Rules. The Department of Public Safety, after consultation with the Board of Osteopathic Licensure, the Board of Licensure in Medicine and the Board of Pharmacy, shall adopt rules that establish security requirements for all written prescriptions for schedule II drugs issued by health care providers. For purposes of this section, "schedule II drug" has the same meaning as in the federal Controlled Substances Act of 1970, 21 United States Code, Section 812. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be brought back for review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters during the 2nd Regular Session of the 120th Legislature. The rules must include a procedure to obtain a waiver for prescription blanks that provide substantially equivalent protection against forgery. The rules must deal with the following subjects:

A. Measures designed to prevent unauthorized copying of a completed or blank prescription form; [PL 2001, c. 419, §23 (NEW).]

B. Measures designed to prevent the erasure or modification of information written on the prescription by the prescribing health care provider; and [PL 2001, c. 419, §23 (NEW).]

C. Measures to prevent the use of counterfeit prescription forms. [PL 2001, c. 419, §23 (NEW).]
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2. Out-of-state prescription security requirements. Notwithstanding any law or rule to the contrary, a prescription for a schedule II drug written by an out-of-state practitioner on a prescription blank that does not comply with the requirements for a security prescription blank, as defined in the Department of Public Safety rule pursuant to subsection 1, may be filled by a pharmacist only if:

A. The pharmacist receives and makes a record of oral confirmation of the validity of the prescription from the out-of-state practitioner or the practitioner's agent and the pharmacist makes a reasonable effort to determine that the oral confirmation came from the practitioner or the practitioner's agent, which may include a telephone call to the practitioner's telephone number listed in a telephone directory or other directory or other good faith efforts to confirm the identity of the person giving the oral confirmation; and [PL 2003, c. 326, §1 (NEW).]

B. The pharmacist demands, inspects and records a valid photographic identification from any person presenting a prescription or receiving a filled prescription unless:

(1) The person is the patient for whom the prescription is written;

(2) The person's identity is personally known to the pharmacist; and

(3) The pharmacist confirms by reviewing the pharmacy records that the pharmacist has previously demanded, inspected and recorded a valid photographic identification from the person. [PL 2003, c. 326, §1 (NEW).]

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3. Valid photographic identification. For the purposes of subsection 2, a valid photographic identification is limited to the following:

A. A valid Maine motor vehicle operator's license; [PL 2003, c. 326, §1 (NEW).]

B. A valid Maine identification card issued under Title 29-A, section 1410; [PL 2003, c. 326, §1 (NEW).]

C. A valid United States passport; or [PL 2003, c. 326, §1 (NEW).]

D. A valid passport or motor vehicle operator's license of another state, territory or possession of the United States or a foreign country only if it:

(1) Contains a photograph of the person presenting the prescription;

(2) Is encased in tamper-resistant plastic or is otherwise tamper-resistant; and

(3) Identifies the date of birth of the person presenting the prescription. [PL 2003, c. 326, §1 (NEW).]

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4. Partial filling of out-of-state prescriptions. The partial filling of a prescription for a schedule II drug written by an out-of-state practitioner on a prescription blank that does not comply with the requirements for a security prescription blank, as defined in the Department of Public Safety rule pursuant to subsection 1, is permissible if the pharmacist is unable after reasonable effort to obtain the oral confirmation described in subsection 2 in the case of the practitioner's office being closed during nights, weekends or holidays. The partial filling is limited to a 72-hour supply of the controlled substance. The remaining portion of the prescription may be filled within the 72-hour period upon obtaining the oral confirmation. No further quantity may be filled beyond the 72 hours without a new prescription.

[PL 2003, c. 326, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 419, §23 (NEW). PL 2003, c. 326, §1 (AMD).

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