

REFERENCE TITLE: **electronic prescribing; exceptions; deadlines**

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HB 2075

Introduced by
Representatives Cobb: Bowers

AN ACT

AMENDING SECTION 36-2525, ARIZONA REVISED STATUTES; RELATING TO
PRESCRIPTION ORDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-2525, Arizona Revised Statutes, is amended to
3 read:

4 36-2525. Prescription orders; labels; packaging; definition

5 A. In addition to the requirements of section 32-1968 pertaining to
6 prescription orders for prescription-only drugs, the prescription order
7 for a controlled substance shall bear the name, address and federal
8 registration number of the prescriber. A prescription order for a
9 schedule II controlled substance drug other than a hospital drug order for
10 a hospital inpatient shall contain only one drug order per prescription
11 blank. If authorized verbally by the prescriber, the pharmacist may make
12 changes to correct errors or omissions made by the prescriber on the
13 following parts of a written or electronic schedule II controlled
14 substance prescription order:

- 15 1. The date issued.
- 16 2. The strength, dosage form or quantity of drug.
- 17 3. The directions for its use.

18 B. The pharmacist must document on the original prescription order
19 the changes that were made pursuant to the verbal authorization and record
20 the time and date the authorization was granted.

21 C. A person who is registered to dispense controlled substances
22 under this chapter must keep and maintain prescription orders for
23 controlled substances as follows:

24 1. Prescription orders for controlled substances listed in
25 schedules I and II must be maintained in a separate prescription file for
26 controlled substances listed in schedules I and II only.

27 2. Prescription orders for controlled substances listed in
28 schedules III, IV and V must be maintained either in a separate
29 prescription file for controlled substances listed in schedules III, IV
30 and V only or in a form that allows them to be readily retrievable from
31 the other prescription records of the registrant. For the purposes of
32 this paragraph, "readily retrievable" means that, when the prescription is
33 initially filed, the face of the prescription is stamped in red ink in the
34 lower right corner with the letter "C" in a font that is not less than one
35 inch high and that the prescription is filed in the usual consecutively
36 numbered prescription file for noncontrolled substance prescriptions. The
37 requirement to stamp the hard copy prescription with a red "C" is waived
38 if a registrant employs an electronic data processing system or other
39 electronic recordkeeping system for prescriptions that permits
40 identification by prescription number and retrieval of original documents
41 by the prescriber's name, patient's name, drug dispensed and date filled.

42 D. Except in emergency situations in conformity with subsection E
43 of this section, under the conditions specified in subsections F and G of
44 this section or when dispensed directly by a medical practitioner to an
45 ultimate user, a controlled substance in schedule II shall not be

1 dispensed without either the written prescription order in ink or
 2 indelible pencil or typewritten and manually signed by the medical
 3 practitioner or an electronic prescription order as prescribed by federal
 4 law or regulation. Beginning January 1, ~~2019~~ 2020, a schedule II
 5 controlled substance that is an opioid may be dispensed in a county with a
 6 population of one hundred fifty thousand persons or more only with an
 7 electronic prescription order as prescribed by federal law or regulation.
 8 Beginning ~~July 1, 2019~~ JANUARY 1, 2020, a schedule II controlled substance
 9 that is an opioid may be dispensed in a county with a population of less
 10 than one hundred fifty thousand persons only with an electronic
 11 prescription order as prescribed by federal law or regulation. A
 12 prescription order for a schedule II CONTROLLED substance shall not be
 13 dispensed more than ninety days after the date on which the prescription
 14 order was issued. Notwithstanding any other provision of this section, a
 15 pharmacy may sell and dispense a schedule II controlled substance
 16 prescribed by a medical practitioner who is located in another county in
 17 this state or in another state if the prescription was issued to the
 18 patient according to and in compliance with the applicable laws of the
 19 state of the prescribing medical practitioner and federal law. A
 20 prescription order for a schedule II controlled substance shall not be
 21 refilled. A PHARMACIST IS NOT IN VIOLATION OF THIS SUBSECTION AND MAY
 22 DISPENSE A PRESCRIPTION ORDER IN THE FOLLOWING CIRCUMSTANCES:

23 1. DURING ANY TIME PERIOD IN WHICH AN ESTABLISHED ELECTRONIC
 24 PRESCRIBING SYSTEM IS NOT OPERATIONAL OR AVAILABLE IN A TIMELY MANNER. IF
 25 THE ELECTRONIC PRESCRIBING SYSTEM IS NOT OPERATIONAL OR AVAILABLE, THE
 26 PHARMACIST MAY DISPENSE A PRESCRIPTION ORDER THAT IS WRITTEN OR RECEIVED
 27 PURSUANT TO SUBSECTION E OF THIS SECTION FOR A SCHEDULE II CONTROLLED
 28 SUBSTANCE THAT IS AN OPIOID. THE PHARMACIST MUST MAINTAIN A RECORD, FOR A
 29 PERIOD OF TIME PRESCRIBED BY THE BOARD, OF WHEN THE ELECTRONIC PRESCRIBING
 30 SYSTEM IS NOT OPERATIONAL OR AVAILABLE IN A TIMELY MANNER.

31 2. THE PRESCRIPTION ORDER FOR A SCHEDULE II CONTROLLED SUBSTANCE
 32 THAT IS AN OPIOID IS IN WRITING AND INDICATES THAT THE MEDICAL
 33 PRACTITIONER WHO ISSUED THE PRESCRIPTION ORDER PROVIDED CARE FOR THE
 34 PATIENT IN A VETERANS ADMINISTRATION FACILITY, A HEALTH FACILITY ON A
 35 MILITARY BASE, AN INDIAN HEALTH SERVICES HOSPITAL OR OTHER INDIAN HEALTH
 36 SERVICE FACILITY, OR A TRIBAL-OWNED CLINIC.

37 E. In emergency situations, emergency quantities of schedule II
 38 controlled substances may be dispensed on an oral prescription order of a
 39 medical practitioner. Such an emergency prescription order shall be
 40 immediately reduced to writing by the pharmacist and shall contain all the
 41 information required for schedule II controlled substances except for the
 42 manual signing of the order by the medical practitioner. Within seven
 43 days after authorizing an emergency oral prescription order, the
 44 prescribing medical practitioner shall cause a written prescription order
 45 manually signed for the emergency quantity prescribed to be delivered to

1 the dispensing pharmacist or an electronic prescription order to be
2 transmitted to the dispensing pharmacist. In addition to conforming to
3 other requirements for prescription orders for schedule II controlled
4 substances, the prescription order shall indicate electronically or have
5 written on its face "authorization for emergency dispensing" and the date
6 of the oral order. If the prescribing medical practitioner fails to
7 deliver such an emergency prescription order within seven days in
8 conformance with board rules, the pharmacist shall notify the board.
9 Failure of the pharmacist to notify the board voids the authority
10 conferred by this subsection to dispense without a prescription order of a
11 medical practitioner that is electronic or that is written and manually
12 signed.

13 F. NOTWITHSTANDING SUBSECTIONS D AND N OF THIS SECTION, ~~the~~
14 ~~following may be transmitted to a pharmacy by fax by~~ a patient's medical
15 practitioner or the medical practitioner's agent MAY TRANSMIT TO A
16 PHARMACY BY FAX A PRESCRIPTION ORDER WRITTEN FOR A SCHEDULE II CONTROLLED
17 SUBSTANCE, INCLUDING OPIOIDS, IF THE PRESCRIPTION ORDER IS ANY OF THE
18 FOLLOWING:

19 1. ~~A prescription order written for a schedule II controlled~~
20 ~~substance~~ To be compounded for the direct administration to a patient by
21 parenteral, intravenous, intramuscular, subcutaneous or intraspinal
22 infusion.

23 2. ~~A prescription order written for any schedule II controlled~~
24 ~~substance~~ For a resident of a long-term care facility.

25 3. ~~A prescription order written for a schedule II controlled~~
26 ~~substance~~ For a patient WHO IS enrolled in a hospice care program that is
27 certified or paid for by medicare under title XVIII or a hospice program
28 that is licensed by this state. The medical practitioner or the medical
29 practitioner's agent must note on the prescription that the patient is a
30 hospice patient.

31 4. FOR A PATIENT AT THE TIME OF DISCHARGE FROM A HOSPITAL TO
32 ANOTHER LICENSED HEALTH CARE INSTITUTION.

33 G. A fax transmitted pursuant to subsection F of this section is
34 the original written prescription order for purposes of this section and
35 must be maintained as required by subsection C of this section.

36 H. Except when dispensed directly by a medical practitioner to an
37 ultimate user, a controlled substance included in schedule III or IV that
38 requires a prescription order as determined under state or federal laws
39 shall not be dispensed without a written or oral prescription order of a
40 medical practitioner or an electronic prescription order as prescribed by
41 federal law or regulation. The prescription order shall not be filled or
42 refilled more than six months after the date on which the prescription
43 order was issued. A prescription order authorized to be refilled shall
44 not be refilled more than five times. Additional quantities may only be
45 authorized by the prescribing medical practitioner through issuance of a

1 new prescription order that shall be treated by the pharmacist as a new
2 and separate prescription order.

3 I. Except when dispensed directly by a medical practitioner to an
4 ultimate user, a controlled substance that is included in schedule V and
5 that requires a prescription order as determined under state or federal
6 laws shall not be dispensed without a written or oral prescription order
7 of a medical practitioner. The prescription order may be refilled as
8 authorized by the prescribing medical practitioner but shall not be filled
9 or refilled more than one year after the date of issuance.

10 J. A controlled substance that is listed in schedule III, IV or V
11 and that does not require a prescription order as determined under state
12 or federal laws may be dispensed at retail by a pharmacist or a pharmacy
13 intern under the pharmacist's supervision without a prescription order to
14 a purchaser who is at least eighteen years of age if all of the following
15 are true:

16 1. It is for a legitimate medical purpose.

17 2. Not more than two hundred forty cubic centimeters (eight ounces)
18 of any such controlled substance containing opium, nor more than one
19 hundred twenty cubic centimeters (four ounces) of any other such
20 controlled substance, nor more than forty-eight dosage units of any such
21 controlled substance containing opium, nor more than twenty-four dosage
22 units of any other controlled substance may be dispensed at retail to the
23 same purchaser in any given forty-eight-hour period.

24 3. No more than one hundred dosage units of any single active
25 ingredient ephedrine preparation may be sold, offered for sale, bartered
26 or given away to any one person in any one thirty-day period.

27 4. The pharmacist or pharmacy intern requires every purchaser of a
28 controlled substance under this subsection who is not known to that person
29 to furnish suitable identification, including proof of age if appropriate.

30 5. A bound record book for dispensing controlled substances under
31 this subsection is maintained by the pharmacist and contains the name and
32 address of the purchaser, the name and quantity of the controlled
33 substance purchased, the date of each purchase and the name or initials of
34 the pharmacist or pharmacy intern who dispensed the substance to the
35 purchaser. The book shall be maintained in conformity with the
36 recordkeeping requirements of section 36-2523.

37 K. In the absence of a law requiring a prescription for a schedule
38 V controlled substance, the board, by rules, may require, or remove the
39 requirement of, a prescription order for a schedule V controlled
40 substance.

41 L. The label on a container of a controlled substance that is
42 directly dispensed by a medical practitioner or pharmacist and that is not
43 for the immediate administration to the ultimate user, such as a bed
44 patient in a hospital, shall bear the name and address of the dispensing
45 medical practitioner or pharmacist, the serial number, the date of

1 dispensing, the name of the prescriber, the name of the patient or, if an
2 animal, the name of the owner of the animal and the species of the animal,
3 the directions for use and cautionary statements, if any, contained in the
4 prescription order or required by law. If the controlled substance is
5 included in schedule II, III or IV, the label shall bear a transfer
6 warning to the effect: "Caution: federal law prohibits the transfer of
7 this drug to any person other than the patient for whom it was
8 prescribed". The container of a schedule II controlled substance that is
9 an opioid that is directly dispensed by a pharmacist and that is not for
10 the immediate administration to the ultimate user shall have a red cap and
11 a warning label prescribed by the board about potential addiction. The
12 board or the executive director, if delegated by the board, may waive the
13 red cap requirement if implementing the requirement is not feasible
14 because of the specific dosage form or packaging type.

15 M. Controlled substances in schedules II, III, IV and V may be
16 dispensed as electronically transmitted prescriptions if the prescribing
17 medical practitioner is all of the following:

- 18 1. Properly registered by the United States drug enforcement
19 administration.
- 20 2. Licensed in good standing in the United States jurisdiction in
21 which the medical practitioner practices.
- 22 3. Authorized to issue such prescriptions in the jurisdiction in
23 which the medical practitioner is licensed.

24 N. Notwithstanding any other provision of this section, beginning
25 January 1, ~~2019~~ 2020, each prescription order, **EXCEPT A PRESCRIPTION ORDER**
26 **UNDER SUBSECTION F OF THIS SECTION**, that is issued by a medical
27 practitioner in a county with a population of one hundred fifty thousand
28 persons or more for a schedule II controlled substance that is an opioid
29 shall be transmitted electronically to the dispensing pharmacy.
30 Notwithstanding any other provision of this section, beginning ~~July 1,~~
31 ~~2019~~ JANUARY 1, 2020, each prescription order, **EXCEPT A PRESCRIPTION ORDER**
32 **UNDER SUBSECTION F OF THIS SECTION**, that is issued by a medical
33 practitioner in a county with a population of less than one hundred fifty
34 thousand persons for a schedule II controlled substance that is an opioid
35 shall be transmitted electronically to the dispensing pharmacy. **A MEDICAL**
36 **PRACTITIONER IS NOT IN VIOLATION OF THIS SUBSECTION:**

- 37 1. **DURING ANY TIME IN WHICH AN ESTABLISHED ELECTRONIC PRESCRIBING**
38 **SYSTEM IS NOT OPERATIONAL OR AVAILABLE IN A TIMELY MANNER. IF THE**
39 **ELECTRONIC PRESCRIBING SYSTEM IS NOT OPERATIONAL OR AVAILABLE, THE MEDICAL**
40 **PRACTITIONER MAY WRITE OR ISSUE PURSUANT TO SUBSECTION E OF THIS SECTION A**
41 **PRESCRIPTION ORDER FOR A SCHEDULE II CONTROLLED SUBSTANCE THAT IS AN**
42 **OPIOID. THE MEDICAL PRACTITIONER SHALL INDICATE ON THE WRITTEN**
43 **PRESCRIPTION ORDER THAT THE ELECTRONIC PRESCRIBING SYSTEM IS NOT**
44 **OPERATIONAL OR AVAILABLE. THE MEDICAL PRACTITIONER MUST MAINTAIN A**
45 **RECORD, FOR A PERIOD OF TIME PRESCRIBED BY THE BOARD, OF WHEN THE**

1 ELECTRONIC PRESCRIBING SYSTEM IS NOT OPERATIONAL OR AVAILABLE IN A TIMELY
2 MANNER.

3 2. IF THE MEDICAL PRACTITIONER WRITES OR ISSUES PURSUANT TO
4 SUBSECTION E OF THIS SECTION A PRESCRIPTION ORDER FOR A SCHEDULE II
5 CONTROLLED SUBSTANCE THAT IS AN OPIOID THAT WILL BE DISPENSED FOR THE
6 PATIENT FROM A VETERANS ADMINISTRATION FACILITY, A HEALTH FACILITY ON A
7 MILITARY BASE, AN INDIAN HEALTH SERVICES HOSPITAL OR OTHER INDIAN HEALTH
8 SERVICE FACILITY, OR A TRIBAL-OWNED CLINIC.

9 O. The requirement in subsections D and N of this section for an
10 electronic prescription order does not apply to a prescription order for a
11 schedule II controlled substance that is an opioid that is issued for
12 medication-assisted treatment for a substance use disorder.

13 P. The board, by rule, may provide additional requirements for
14 prescribing and dispensing controlled substances.

15 ~~Q. The board shall establish a process to grant a waiver for the
16 requirement in subsections D and N of this section for electronic
17 prescription orders to a medical practitioner who lacks adequate access to
18 broadband or faces other hardships that prevent the medical practitioner
19 from implementing electronic prescription orders. A pharmacist is not
20 required to verify with a medical practitioner or the board whether the
21 medical practitioner has received a waiver pursuant to this subsection.~~

22 Q. THE BOARD MAY PRESCRIBE BY RULE ADDITIONAL EXCEPTIONS TO THE
23 ELECTRONIC PRESCRIBING REQUIREMENTS SPECIFIED IN THIS SECTION FOR BOTH
24 PHARMACISTS AND MEDICAL PRACTITIONERS.

25 R. For the purposes of this section, "medication-assisted
26 treatment" has the same meaning prescribed in section 32-3201.01.

27 Sec. 2. Retroactivity

28 Section 36-2525, Arizona Revised Statutes, as amended by this act,
29 applies retroactively to from and after December 31, 2018.

30 Sec. 3. Emergency

31 This act is an emergency measure that is necessary to preserve the
32 public peace, health or safety and is operative immediately as provided by
33 law.