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Client Alert: Florida E- Prescribing Requirements

INDUSTRY SECTOR

Health Care

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Electronic prescribing (“e-prescribing”) allows health care providers to submit prescriptions to a pharmacy electronically, using a secure software system. E-prescribing increases patient safety, security, and efficiency while decreasing fraud. As of January 1, 2020, Florida e-prescribing requirements dictate that all practitioners e-prescribe medical drugs upon the earlier of one of two dates: 1) their next license renewal or 2) July 1, 2021. Florida’s requirements, which are already in effect, are separate from federal requirements regarding e-prescribing with effective dates for 2021. Practitioners in Florida must e-prescribe unless a special circumstance or exception applies.

The state’s e-prescribing requirements apply to health care practitioners who maintain a system of electronic health records or who are an owner, employee, or contractor of a licensed health care facility or practice that maintains such a system and the health care practitioner is prescribing drugs in that capacity. Recognizing that meeting Florida’s new requirements could prove challenging for some providers, the Legislature included a number of exceptions. All prescriptions must be transmitted electronically unless one of the following applies:

1. The practitioner and the dispenser are the same entity.
2. The prescription cannot be transmitted electronically under the most recently implemented version of the National Council for Prescription Drug Programs SCRIPT Standard.
3. The practitioner has been issued a waiver by the Department of Health, not to exceed one (1) year in duration, from the requirement to use e-prescribing due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the practitioner, or another exceptional circumstance demonstrated by the practitioner.
4. The practitioner reasonably determines that it would be impractical for the patient in question to obtain a medicinal drug prescribed by electronic prescription in a timely manner and such delay would adversely impact the patient’s medical condition.
5. The practitioner is prescribing a drug under a research protocol.
6. The prescription is for a drug for which the federal Food and Drug Administration requires the prescription to contain elements that may not be included in electronic prescribing.
7. The prescription is issued to an individual receiving hospice care or who is a resident of a nursing home facility.
8. The practitioner determines that it is in the best interest of the patient, or the patient determines that it is in their own best interest, to compare prescription drug prices among area pharmacies. The

practitioner must document such determination in the patient's medical record.

Florida's Department of Health published additional guidance regarding the application process for the hardship waiver, which can be accessed through the Department's FAQ site. Practitioners should review this guidance, Florida law, and their e-prescribing processes with their compliance officers or lawyers to decide whether an exception applies, if a waiver should be sought, and to continue to ensure compliance with Florida law.