

## Blog Post

# Have Paper Prescriptions Gone the Way of the Horse and Buggy? Almost.

July 19, 2021

For most Florida prescribers whose licenses haven't renewed since 2019, it's time to commence electronic prescribing. In 2019, the legislature enacted legislation that required electronic prescribing. However, this requirement became effective on the earlier of the prescriber's license renewal date or July 1, 2021. Section 456.42(3), Florida Statutes requires health care practitioners to "electronically transmit prescription(s)." This term is not defined and, while it likely was intended to mean "electronic prescribing," it does not say that.

The requirement that practitioners electronically transmit prescriptions only applies to those health care practitioners licensed by law to prescribe (MDs, DOs, APRNs, PAs, podiatric physicians, dentists, and optometrists) who:

- Maintain an electronic health records system (EHR); or
- Prescribe medicinal drugs as an owner, employee or contractor of a licensed health care facility or practice that maintains EHR

This requirement would apply to practitioners at a "licensed health care facility" (such as hospitals, health care clinics, ambulatory surgical centers, and other licensed facilities) which have EHR. It is less clear what qualifies as a "practice" or whether it applies to practitioners at unlicensed locations with

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EHR (such as exempt health care clinics). Nevertheless, physicians in private practice who utilize EHR would be well advised to commence electronic prescribing. Clearly, practitioners that do not use EHR and only use paper medical records will not have to comply.

There are a host of exemptions to the electronic transmission requirement. It does not apply to:

- Dispensing practitioners
- Prescriptions that cannot be transmitted electronically under NCPDP SCRIPT standards
- Practitioners granted a one-year waiver by the Department of Health
- Practitioners that reasonably determine that it would be impractical for the patient to obtain the drug in a timely manner and that it would adversely impact the patient's health
- Practitioners prescribing drugs under a research protocol
- Prescriptions for drugs for which the FDA requires that the prescription contain elements that may not be included in electronic prescribing
- Prescriptions for hospice patients or residents of nursing homes, or
- Prescriptions when the prescriber or patient determines that it is in the patient's best interests to compare prices among area pharmacies and the prescriber documents this determination in the medical record

The Department of Health, in consultation with the relevant health care practitioner boards, may adopt rules implementing the law. The Board of Medicine has a webpage with [FAQs](#) that, while informative, does not have the force and effect of law. The Board of Medicine has stated on its website FAQs that faxing prescriptions would not qualify as electronic prescribing. The website also indicates that prescriptions communicated in a phone call to a

pharmacy (oral prescriptions) could only be utilized if one of the above exceptions applies. Pharmacists likely will require additional information when a prescriber calls in a prescription. Prescribers will need to affirmatively identify to the pharmacist either that they do not maintain EHR or will need to identify which of the eight exemptions apply. Prescribers and pharmacists will need to adjust to these new requirements.

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