

Mandatory E-Prescribing for Opioids with Exemptions: **(Action)**
Approved by the CMS BOD: 1-18-19

The question before BOD: Upon recommendation of the Committee on Prescription Drug Abuse and following review by the Council on Legislation *that CMS support mandatory electronic prescribing of opioids with exemptions*

Background:

- CMS spent significant political capital in the 2018 General Assembly successfully opposing mandatory e-prescribing of opioids.
- Advocates have pledged to bring the legislation back in 2019
- On November 20, 2018, the Committee on Prescription Drug Abuse held a special meeting with the legislative proponents to discuss mandatory e-prescribing for controlled substances.
- The meeting came on the heels of a new [federal mandate](#) for physicians to electronically prescribe controlled substances by January 2021 for Schedule II, III, IV, and V controlled substances covered under a Medicare Part D Prescription Drug Plan or Medicare Advantage prescription drug plans;
- Walmart is currently requiring e-Rx for all controlled substances; and,
- A statewide CMS membership flash survey demonstrated:
 - 81% of members currently utilize e-prescribing in their practice
 - When asked if members also e-prescribe for controlled substances (e.g. opioids), the following replies showed:
 - 45% yes;
 - 44% no
 - 11% some of the time but not always
 - When asked if members support or oppose an opioid e-prescribing mandate as a means to help reverse the opioid crisis, the following replies showed:
 - 36% support
 - 33% oppose
 - 31% unsure.

Observations and recommendations:

1. The costs, administrative burdens and the timeline for adoption of an electronic prescribing mandate for controlled substances by practices, especially small ones, are legitimate concerns for some physicians.
2. Recent public payer and private business actions regarding e-prescribing for controlled substances make opposing this bill in 2019 challenging from a policy perspective.
3. Given that most of the benefit from e-prescribing goes to pharmacies, CMS should seek financial support from pharmacies for the PDMP and enhanced, less-expensive interoperability of the PDMP with electronic health records.
4. CMS should conditionally support the e-prescribing mandate pending the inclusion of specific exemptions for physicians including:

- At the time of issuing the prescription, electronic prescribing is not available due to technological or electrical failure;
- The prescription is to be dispensed at a pharmacy located outside this state;
- The prescribing provider is dispensing the controlled substance to the patient;
- The prescription includes elements not supported by the most recent version of the National Council for Prescription Drug Programs SCRIPT standard;
- The FDA requires the prescription for the particular controlled substance to contain elements that cannot be satisfied with electronic prescribing;
- The prescription is not specific to a patient and allows dispensing of the prescribed controlled substance because of (A) pursuant to a standing order, approved protocol of drug therapy, or collaborative drug management or comprehensive medication management plan; (B) in response to a public health emergency; or (C) under other circumstances that permit the provider to issue a prescription that is not patient-specific;
- The prescription is for a controlled substance under a research protocol;
- The prescriber is prescribing a controlled substance to a patient in a hospital, nursing care facility, hospice care facility, dialysis treatment clinic, assisted living residence, or from an emergency department;
- The prescriber reasonably determines that the patient would be unable to obtain controlled substances prescribed electronically in a timely manner and that the delay would adversely affect the patient's medical condition;
- Prescriptions from residents, fellows, interns, locum tenens physicians, nurse practitioners or physician assistants that contain a suffix that are not accepted by the pharmacy;
- Complicated directions that are longer than 140 characters;
- Compounded prescriptions or compounded infusion prescriptions containing two or more products;
- Specific request by patients for a paper prescription for use in price shopping;
- Delayed effective date by two years for rural providers and for small practices with three or fewer physicians;
- Waiver from the requirement to use electronic prescribing due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the physician, or other exceptional circumstance demonstrated by the physician.