

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS AND THE
REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, 6509, 6802, 6810 and 6816-a of the
Education Law and Chapter 357 of the Laws of 2017

1. Subdivision (a) of section 29.7 of the Rules of the Board of Regents is
amended, as follows:

(a) The requirements of this section set forth for written prescriptions shall also be
applicable to electronic prescriptions, as defined in section 63.6(a)(7)(i)(a) of this Title,
unless otherwise indicated. For purposes of this section *signature* shall include an
electronic signature, as defined in section 63.6(a)(7)(i)(c) of this Title, when applicable,
and *sign* shall include the affixing of an electronic signature. Unprofessional conduct in
the practice of pharmacy shall include all conduct prohibited by sections 29.1 and 29.2 of
this Part except as provided in this section, and shall also include the following:

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) Failure to identify a generic product or interchangeable biological product
dispensed on a prescription by writing the name of the manufacturer and of the distributor,
if different, on the prescription and on the label, except as otherwise provided in Education
Law, sections 6816-a(1)(c) and 6816-a(3)(c).

(7) . . .

(8) . . .

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(a) . . .

(b) . . .

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(15) . . .

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(7) . . .

(16) . . .

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(ii) . . .

(17) . . .

(i) . . .

(ii) . . .

(18) . . .

(19) . . .

(20) . . .

(21) Aiding and abetting an unlicensed person to dispense drugs.

(i) . . .

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(f) . . .

(g) . . .

(h) . . .

(i) . . .

(j) . . .

(ii) . . .

(a) . . .

(b) Unlicensed persons shall not be authorized to:

(1) . . .

(2) . . .

(3) make determinations of the therapeutic equivalency as such determinations apply to generic substitution or interchangeable biological product substitution;

(4) . . .

(5) . . .

(6) . . .

(7) . . .

(c) . . .

2. Paragraph (7) of subdivision (a) of section 63.6 of the Regulations of the Commissioner of Education is amended, as follows:

(a) General provisions.

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) Electronic prescriptions.

(i) . . .

(a) . . .

(b) . . .

(c) . . .

(ii) A pharmacist may, based upon his or her professional judgment, accept an electronic prescription from a prescriber, to the pharmacy of the patient's choice, subject to the following requirements:

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) [such prescriptions shall be processed in accordance with the requirements of section 29.7 of this Title, provided, however, that prescriptions for controlled substances shall be filled in accordance with the requirements of article 33 of the Public Health Law; and] except when the prescriber inserts an electronic direction to dispense the drug as

written, the prescriber's electronic signature shall designate approval of an interchangeable biological product by a pharmacist. Notwithstanding any other provision of this section or any other law to the contrary, when an interchangeable biological product is not available and the biological product originally prescribed is available and the pharmacist agrees to dispense the prescribed biological product for a price that will not exceed the price that would have been charged for the interchangeable biological substitute had it been available, substitution of an interchangeable biological product will not be required. If the interchangeable biological product is not available and a medical emergency situation, which for purposes of this section is defined as any condition requiring alleviation of severe pain or which threatens to cause disability or take life if not promptly treated, exists, then the pharmacist may dispense the prescribed biological product at his or her regular price. In such instances, the pharmacist must record the date, hour and nature of the medical emergency on the back of the prescription and keep a copy of all such prescriptions;

(f) [in accepting an electronic prescription, the pharmacist shall be subject to the applicable requirements of Part 29 of this Title relating to unprofessional conduct, including but not limited to section 29.1(b)(2) and (3) of this Title.] such prescriptions shall be processed in accordance with the requirements of section 29.7 of this Title, provided, however, that prescriptions for controlled substances shall be filled in accordance with the requirements of article 33 of the Public Health Law; and

(g) in accepting an electronic prescription, the pharmacist shall be subject to the applicable requirements of Part 29 of this Title relating to unprofessional conduct, including but not limited to section 29.1(b)(2) and (3) of this Title.

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(i) . . .

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(ii) . . .

(a) . . .

(b) . . .

(c) . . .

(iii) . . .

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(iv) . . .

(9) . . .

3. Clause (c) of subparagraph (ii) of paragraph (8) of subdivision (b) of section 63.6 of the Regulations of the Commissioner of Education is amended, as follows:

(b) Pharmacies.

(1) . . .

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6)...

(i) . . .

(a) . . .

(b) . . .

(1) . . .

(2) . . .

(ii) . . .

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e)...

(f) ...

(g)...

(iii)...

(7)...

(8) Counseling.

(i) . . .

(a) . . .

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) . . .

(8) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(ii) Off-premises delivery. For a prescription that is delivered to the patient or the person authorized to act on behalf of the patient off the premises of the pharmacy through mail delivery, a delivery service or otherwise, the pharmacist or pharmacy intern shall meet the requirements of this subparagraph.

(a) . . .

(b) . . .

(c) Except for instances covered by clause (d) of this subparagraph, which applies in those cases, if upon presentation of the prescription, the pharmacist or pharmacy intern determines that the prescription is a prescriber approved alternative drug, meaning a change in the drug originally prescribed exclusive of generic substitutions or interchangeable biological product substitutions, the pharmacist or pharmacy intern shall meet the following requirements in addition to the requirements of clauses (a) and (b) of this subparagraph:

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

(7) ...

(d) ...

(1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(9)...