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New York State e-prescribing mandate effective March 27, 2016; no further delay is expected

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New York State health care practitioners (excluding veterinarians) are expected to be ready to issue all prescriptions, including prescriptions for controlled substances, in electronic format, by March 27, 2016. The law, originally slated to become effective on March 27, 2015,¹ was delayed for one year to provide additional time for health care practitioners and health care facilities to acquire, test and implement DEA approved and certified e-prescribing software.

Although the requirement to prescribe electronically is imposed on practitioners, many practitioners are reliant upon hospitals, nursing homes or other facilities to provide the necessary e-prescribing hardware and software to utilize when the practitioners are providing health services and prescribing drugs for patients or residents at such locations. As a result, there are many practitioners who may be ready by March 27, 2016, to prescribe electronically in some but not all of their practice locations.

In recognition of the economic and technological challenges that some prescribers may experience in trying to comply with this mandate, the law permits practitioners to seek a waiver from the requirement to prescribe electronically. Waiver requests are to be submitted to the NYS Department of Health Bureau of Narcotic Enforcement. In seeking a waiver, practitioners must provide the following information: waiver site address(es), reason(s) or circumstances illustrating the need for a waiver, and supporting documentation for the waiver request, which may include such information as the reason electronic prescribing is unavailable to practitioners, what has been accomplished to meet the requirements of the electronic prescribing law and when electronic prescribing is expected to be in place and operational. More information about the waiver process and access to the online waiver application can be found at http://www.health.ny.gov/professionals/narcotic/electronic_prescribing/waiver.htm.

¹ http://www.nixonpeabody.com/NYS_practitioners_electronic_prescription_mandate.

Additional information about the waiver process can also be found in the revised Frequently Asked Questions (FAQs) found at http://www.health.ny.gov/professionals/narcotic/official_prescription_program/docs/opp_faq.pdf. The FAQs provide a step-by-step process for submitting waiver requests as single practitioners, medical group practices (two or more practitioners) and/or institutions. The FAQs also indicate that staff deemed to be HCS Coordinators or Electronic Prescribing Waivers (EPW) Requestors are eligible to complete and file waiver requests on behalf of medical group practices and institutions. If a waiver is granted, however, it is important to remember that the waiver is only valid for one year and any extension will require the submission of a subsequent waiver application seeking an extension.

Practitioners' failure to comply with the requirement to prescribe electronically would be a violation of the Public Health law and could subject such practitioners to fines or potential disciplinary action.

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