



Missouri Department of Health and Senior Services

P.O. Box 570, Jefferson City, MO 65102-0570 Phone: 573-751-6400 FAX: 573-751-6010
RELAY MISSOURI for Hearing and Speech Impaired and Voice dial: 711

Randall W. Williams, MD, FACOG
Director



Michael L. Parson
Governor

December 11, 2020

As Director of the Missouri Department of Health and Senior Services (“Department”), pursuant to Executive Orders 20-04 and 20-19, I am vested with the authority to temporarily waive or suspend the operation of any statutory requirement or administrative rule, upon approval of the Office of the Governor. After consultation with and receiving approval from the Office of Governor, I am hereby waiving the following laws in order to assist the state, and its citizens prepare and respond to COVID-19 until March 31, 2021, unless otherwise modified by the Department.

Exception from Electronic Prescribing Requirement

Section 195.550, RSMo. shall be waived to the extent the provision requires persons to utilize electronic prescribing to issue prescriptions for Schedule II, III and IV controlled substances.

A handwritten signature in black ink, appearing to read "Randall W. Williams".

Randall W. Williams, MD FACOG
Director

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195.550. Electronic prescriptions required, when, exceptions — violations. — 1. Notwithstanding any other provision of this section or any other law to the contrary, beginning January 1, 2021, no person shall issue any prescription in this state for any Schedule II, III, or IV controlled substance unless the prescription is made by electronic prescription from the person issuing the prescription to a pharmacy, except for prescriptions:

(1) Issued by veterinarians;

(2) Issued in circumstances where electronic prescribing is not available due to temporary technological or electrical failure;

(3) Issued by a practitioner to be dispensed by a pharmacy located outside the state;

(4) Issued when the prescriber and dispenser are the same entity;

(5) Issued that include elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard;

(6) Issued by a practitioner for a drug that the federal Food and Drug Administration requires the prescription to contain certain elements that are not able to be accomplished with electronic processing;

(7) Issued by a practitioner allowing for the dispensing of a nonpatient specific prescription pursuant to a standing order, approved protocol for drug therapy, collaborative drug management or comprehensive medication management, in response to a public health emergency, or other circumstances where the practitioner may issue a nonpatient specific prescription;

(8) Issued by a practitioner prescribing a drug under a research protocol;

(9) Issued by practitioners who have received an annual waiver, or a renewal thereof, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the department of health and senior services, due to economic hardship, technological limitations, or other exceptional circumstances demonstrated by the practitioner;

(10) Issued by a practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subsection, such practitioner reasonably determines that it would be impractical for the patient to obtain substances prescribed by electronic prescription in a timely manner, and such delay would adversely impact the patient's medical condition; or

(11) Issued where the patient specifically requests a written prescription.

2. A pharmacist who receives a written, oral, or faxed prescription is not required to verify that the prescription properly falls under one of the exceptions from the requirement to electronically prescribe. Pharmacists may continue to dispense medications from otherwise valid written, oral, or fax prescriptions that are consistent with state and federal laws and regulations.

3. An individual who violates the provisions of this section may be subject to discipline by his or her professional licensing board.

(L. 2019 S.B. 514)

----- 195.550 8/28/2019 -----

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 1—Controlled Substances**

EMERGENCY RULE

19 CSR 30-1.080 Electronic Prescribing Waiver

PURPOSE: This rule establishes the process for practitioners to obtain waivers to the electronic prescribing requirements established by section 195.550, RSMo.

*EMERGENCY STATEMENT: Section 195.550, RSMo. requires that, beginning January 1, 2021, no person shall issue any prescription in this state for any Schedule II, III, or IV controlled substances unless the prescription is made by electronic prescription from the person issuing the prescription to a pharmacy, unless one of the listed exceptions applies. One such exception is that the issuing practitioner has obtained a waiver from the Missouri Department of Health and Senior Services due to economic hardship, technological limitations, or other exceptional circumstance. As this deadline approaches, information from practitioners suggests that many practitioners in the state do not meet one of listed exemptions and are in need of a waiver in order to continue providing services to Missouri patients. Emergency implementation of this rule is necessary to prevent an interruption of services to Missouri patients caused by their physicians not being able to issue new prescriptions for Schedule II, III, and IV controlled substances. The Governor has waived the electronic prescribing requirement through March 30, 2021; however, a proposed rule will not be effective by then so the risk of an interruption in services still exists. The waiver, paired with an emergency rule, allows practitioners some time to request waivers in advance of the deadline. A proposed rule, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Department of Health and Senior Services believes this emergency rule is fair to all interest persons and parties under the circumstances. This emergency rule was filed December 15, 2020, becomes effective December 31, 2020, and expires June 29, 2021.*

- (1) Practitioners required to utilize electronic prescribing pursuant to section 195.550, RSMo may request a waiver of this requirement from the Department of Health and Senior Services.
- (A) Applications shall only be submitted by practitioners with active Missouri Controlled Substance Registrations. Applications shall not be submitted by a registrant's designee or representative.
 - (B) Applicants requesting a waiver shall submit an application for a waiver by sending their application to BNDDRxWaiver@health.mo.gov. A sample application may be found on the Department's website, www.health.mo.gov/safety/bnodd.
 - (B) The application shall include:
 1. Applicant's first and last name;
 2. Applicant's licensure type;
 3. Applicant's Missouri Controlled Substance Registration number;

4. Applicant's email address.
5. The Applicant shall indicate for which of the following reasons they are seeking a waiver:
 - (1) Economic hardship;
 - (2) Technological limitations; or
 - (3) Other exceptional circumstances
6. The Applicant shall provide any additional details they consider necessary to support their waiver request.
7. The Applicant shall certify that the information included in their application is true and accurate.
8. The Applicant shall sign and date the application. An electronic signature will satisfy this requirement.

(C) Waivers granted by the Department shall be valid for one (1) year after the date on which they are issued.

(D) Waivers shall be kept on file at the practitioner's primary, principle practice location and available for review by the Department.

AUTHORITY: section 195.550, RSMo 2019. Emergency rule filed December 15, 2020, effective December 31, 2020, expires June 29, 2020. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*

**Original authority: 195.550, RSMo 2019.*

PUBLIC COST: This emergency rule will cost state agencies or political subdivisions fifty eight thousand, nine hundred and fifty three dollars (\$58,953) in the aggregate for the time the emergency is effective.

PRIVATE COST: This emergency rule will not cost private entities more than five hundred dollars (\$500) in the time the emergency is effective.



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Waiver for Implementation of Electronic Prescribing of Controlled Substances

Section 195.550, RSMo requires that prescriptions for Schedule II, III, and IV controlled substances be prescribed electronically unless one of the statutory exceptions are met. This was set to be effective on January 1, 2021. The Missouri Department of Health and Senior Services will be filing proposed and emergency rules detailing how practitioners may request a waiver on December 15, 2020. Emergency Rule 19 CSR 30-1.080 Electronic Prescribing Waiver will go into effect on December 30, 2020.

The Department has issued a temporary waiver of electronic prescribing requirements until March 31, 2021. A copy of that waiver may be found on the BNDD website <https://health.mo.gov/safety/bndd>.

Practitioners who think they may need a waiver from electronic prescribing requirements due to economic hardship, technological limitations, or other exceptional circumstances are encouraged to apply for waivers on or after January 1, 2020. Waiver requests will be processed in the order in which they are received.

Implementation Plan:

Beginning January 1, 2021, practitioners who would like to apply for a waiver from the Missouri Bureau of Narcotics and Dangerous Drugs, may visit the Bureau's website at <https://health.mo.gov/safety/bndd>.

On or before December 30, 2020, there will be a link to click on called Electronic Prescribing Waivers.

Applicants may click on this link. It will provide a one-page, fill-in-the blank application that is a fillable PDF form. The applications must be emailed to BNDDRxWaiver@health.mo.gov.

The BNDD will respond to the applicants with written waivers or denials. The waivers or denials will be emailed back to the applicant at the address the provided on the application form. Waivers will be effective for one year from the date issued.

This process is expected to be in place for the duration of the 2021 calendar year. The Department will be working on amending the annual BNDD Registration application that practitioners submit annually. The waiver questions will be added to the annual application and granted with annual registrations. More details on the implementation of that change will come at a future time.

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