§ 6810. Prescriptions. 1. No drug for which a prescription is required by the provisions of the Federal Food, Drug and Cosmetic Act or by the commissioner of health shall be distributed or dispensed to any person except upon a prescription written by a person legally authorized to issue such prescription. Such drug shall be compounded or dispensed by a licensed pharmacist, and no such drug shall be dispensed without affixing to the immediate container in which the drug is sold or dispensed a label bearing the name and address of the owner of the establishment in which it was dispensed, the date compounded, the number of the prescription under which it is recorded in the pharmacist's prescription files, the name of the prescriber, the name and address of the patient, and the directions for the use of the drug by the patient as given upon the prescription. All labels shall conform to such rules and regulations as promulgated by the commissioner pursuant to section sixty-eight hundred twenty-nine of this article. The prescribing and dispensing of a drug which is a controlled substance shall be subject to additional requirements provided in article thirty-three of the public health law. The words "drug" and "prescription required drug" within the meaning of this article shall not be construed to include soft or hard contact lenses, eyeglasses, or any other device for the aid or correction of vision. Nothing in this subdivision shall prevent a pharmacy from furnishing a drug to another pharmacy which does not have such drug in stock for the purpose of filling a prescription.

1-a. Notwithstanding subdivision one of this section, at the prescriber's request, the prescription label for mifepristone or misoprostol shall include the name or address of the prescribing health care practice instead of the name of the prescriber.

2. (a) A prescription may not be refilled unless it bears a contrary instruction and indicates on its face the number of times it may be refilled. A prescription may not be refilled more times than allowed on the prescription. The date of each refilling must be indicated on the original prescription. Prescriptions for controlled substances shall be refilled only pursuant to article thirty-three of the public health law.

A pharmacy registered with the department pursuant to section

sixty-eight hundred eight or sixty-eight hundred eight-b of this article may not deliver a new or refilled prescription off premises without the consent of the patient or an individual authorized to consent on the patient's behalf. For the purposes of this section, consent may be obtained in the same manner and process by which consent is deemed acceptable under the federal Medicare Part D program.

(b) Pharmacy providers who deliver medication without patient or authorized individual consent will be required to accept the return of the medication from the patient, provide that patient credit for any charges they may have paid, and will be required to destroy those medications sent without consent on delivery in accordance with applicable state and federal law. Nothing in this section shall be deemed to interfere with the requirements for refill reminder or medication adherence programs. Nothing in this section is intended to apply to long-term care pharmacy dispensing and delivery.

3. A copy of a prescription for a controlled substance shall not be furnished to the patient but may be furnished to any licensed practitioner authorized to write such prescription. Copies of other prescriptions shall be furnished to the patient at his request, but such copies are issued for the informational purposes of the prescribers only, and shall be so worded.

4. (a) Oral prescriptions for controlled substances shall be filled pursuant to article thirty-three of the public health law. A pharmacist may fill an oral prescription for a drug, other than a controlled substance, made by a practitioner legally authorized to prescribe drugs. An oral authorization for the refill of a prescription, other than a prescription for a controlled substance, may be made by a practitioner legally authorized to prescribe drugs. The pharmacist receiving such oral authorization for the refill of a prescription shall write on the reverse side of the original prescription the date, time, and name of the practitioner authorizing the refill of the prescription. An oral prescription or an oral authorization for the refill of a prescription for the drug, other than a controlled substance, may be communicated by an employee of the prescribing practitioner; provided, however, the pharmacist shall:

(i) contemporaneously reduce such prescription to writing;

(ii) dispense the substance in conformity with the labeling requirements applicable to a written prescription; and

(iii) make a good faith effort to verify the employee's identity if the employee is unknown to the pharmacist.

(b) Oral prescriptions for patients in general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of the public health law, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or facilities operated by the office for people with developmental disabilities, may be communicated to a pharmacist serving as a vendor of pharmaceutical services based upon a contractual arrangement by an agent designated by and under the direction of the prescriber or the institution. Such agent shall be a health care practitioner currently licensed and registered under this title.

5. Records of all prescriptions filled or refilled shall be maintained for a period of at least five years and upon request made available for inspection and copying by a representative of the department. Such records shall indicate date of filling or refilling, prescriber's name, patient's name and address and the name or initials of the pharmacist who prepared, compounded, or dispensed the prescription. Records of prescriptions for controlled substances shall be maintained pursuant to requirements of article thirty-three of the public health law.

6. (a) Every prescription written in this state by a person authorized to issue such prescription shall be on prescription forms containing one line for the prescriber's signature. The prescriber's signature shall validate the prescription. Every electronic prescription shall provide for the prescriber's electronic signature, which shall validate the electronic prescription. Imprinted conspicuously on every prescription written in this state in eight point upper case type immediately below the signature line shall be the words: "THIS PRESCRIPTION WILL BE FILLED GENERICALLY UNLESS PRESCRIBER WRITES 'd a w' IN THE BOX BELOW". Unless the prescriber writes d a w in such box in the prescriber's own handwriting or, in the case of electronic prescriptions, inserts an electronic direction to dispense the drug as written, the prescriber's

signature or electronic signature shall designate approval of substitution by a pharmacist of a drug product pursuant to paragraph (o) of subdivision one of section two hundred six of the public health law. No other letters or marks in such box shall prohibit substitution. No prescription forms used or intended to be used by a person authorized to issue a prescription shall have 'd a w' preprinted in such box. Such box shall be placed directly under the signature line and shall be three-quarters inch in length and one-half inch in height, or in comparable form for an electronic prescription as may be specified by regulation of the commissioner. Immediately below such box shall be imprinted in six point type the words "Dispense As Written". Notwithstanding any other provision of law, no state official, agency, board or other entity shall promulgate any regulation or guideline modifying those elements of the prescription form's contents specified in this subdivision. To the extent otherwise permitted by law, a prescriber may modify only those elements of the prescription form's contents not specified in this subdivision. Notwithstanding any other provision of this section or any other law, when a generic drug is not available and the brand name drug originally prescribed is available and the pharmacist agrees to dispense the brand name product for a price that will not exceed the price that would have been charged for the generic substitute had it been available, substitution of a generic drug product will not be required. If the generic drug 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 brand name product at his 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.

(b) Notwithstanding any other provision of this section or any other law, 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 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.

(c) The prescriber shall inform the patient whether he or she has prescribed a brand name or its generic equivalent drug product or interchangeable biological product.

(d) The provisions of this subdivision shall not apply to a hospital as defined in article twenty-eight of the public health law.

(e) No prescriber shall be subjected to civil liability arising solely from authorizing, in accordance with this subdivision, the substitution by a pharmacist of a drug product pursuant to paragraph (o) of subdivision one of section two hundred six of the public health law.

7. (a) No prescription for a drug written in this state by a person authorized to issue such prescription shall be on a prescription form which authorizes the dispensing or compounding of any other drug. No drug shall be dispensed by a pharmacist when such prescription form includes any other drug.

(b) With respect to drugs other than controlled substances, the provisions of this subdivision shall not apply to pharmacists employed by or providing services under contract to general hospitals, nursing homes, residential health care facilities as defined in section twenty-eight hundred one of the public health law, hospitals as defined in subdivision ten of section 1.03 of the mental hygiene law, or facilities operated by the office for people with developmental disabilities, who dispense drugs in the course of said employment or in the course of providing such services under contract. With respect to such pharmacists, each prescription shall be transcribed on a patient specific prescription form.

8. Every prescription (whether or not for a controlled substance) written in this state by a person authorized to issue such prescription

and containing the prescriber's signature shall, in addition to such signature, be imprinted or stamped legibly and conspicuously with the printed name of the prescriber who has signed the prescription. The imprinted or stamped name of the signing prescriber shall appear in an appropriate location on the prescription form and shall not be entered in or upon any space or line reserved for the prescriber's signature. The imprinted or stamped name shall not be employed as a substitute for, or fulfill any legal requirement otherwise mandating that the prescription be signed by the prescriber.

9. No person, corporation, association or other entity, not licensed to issue a prescription pursuant to this title, shall wilfully cause prescription forms, blanks or facsimiles thereof to be disseminated to any person other than a person who is licensed to issue a prescription pursuant to this title. A violation of this subdivision shall be a class B misdemeanor punishable in accordance with the provisions of the penal law.

10. Notwithstanding any other provision of this section or any other law to the contrary, effective three years subsequent to the date on which regulations establishing standards for electronic prescriptions are promulgated by the commissioner of health, in consultation with the commissioner pursuant to subdivision three of section two hundred eighty-one of the public health law, no practitioner shall issue any prescription in this state, unless such prescription is made by electronic prescription from the practitioner to a pharmacy, except for prescriptions: (a) issued by veterinarians; (b) issued or dispensed in circumstances where electronic prescribing is not available due to temporary technological or electrical failure, as set forth in regulation; (c) issued by practitioners who have received a waiver or a renewal thereof for a specified period determined by the commissioner of health, not to exceed one year, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the commissioner of health, in consultation with the commissioner due to economic hardship, technological limitations that are not reasonably within the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner; (d) issued by a

practitioner under circumstances where, notwithstanding the practitioner's present ability to make an electronic prescription as required by this subdivision, 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, provided that if such prescription is for a controlled substance, the quantity that does not exceed a five day supply if the controlled substance was used in accordance with the directions for use; or (e) issued by a practitioner to be dispensed by a pharmacy located outside the state, as set forth in regulation.

10-a. A pharmacy that receives an electronic prescription from the person issuing the prescription may, if the prescription has not been dispensed and at the request of the patient or a person authorized to make the request on behalf of the patient, immediately transfer or forward such prescription to an alternative pharmacy designated by the requesting party.

11. In the case of a prescription issued by a practitioner under paragraph (b) of subdivision ten of this section, the practitioner shall be required to indicate in the patient's health record that the prescription was issued other than electronically due to temporary technological or electrical failure.

12. In the case of a prescription issued by a practitioner under paragraph (d) or (e) of subdivision ten of this section, the practitioner shall, upon issuing such prescription, indicate in the patient's health record either that the prescription was issued other than electronically because it (a) was impractical to issue an electronic prescription in a timely manner and such delay would have adversely impacted the patient's medical condition, or (b) was to be dispensed by a pharmacy located outside the state.

13. The waiver process established in regulation pursuant to paragraph (c) of subdivision ten of this section shall provide that a practitioner prescribing under a waiver must notify the department of health in

writing promptly upon gaining the capability to use electronic prescribing, and that a waiver shall terminate within a specified period of time after the practitioner gains such capability.

14. Notwithstanding any other provision of law to the contrary, no outsourcing facility may distribute or dispense any drug to any person pursuant to a prescription unless it is also registered as a pharmacy in this state and meets all other applicable requirements of federal and state law.

* 15. Notwithstanding any other provisions of this section or any other law to the contrary, a practitioner shall not be required to issue prescriptions electronically if he or she certifies to the department of health, in a manner specified by the department of health, that he or she will not issue more than twenty-five prescriptions during a twelve month period. Prescriptions in both oral and written form for both controlled substances and non-controlled substances shall be included in determining whether the practitioner will reach the limit of twenty-five prescriptions.

(a) A certification shall be submitted in advance of the twelve-month certification period, except that a twelve-month certification submitted on or before on July first,two thousand sixteen, may begin March twenty-seventh, two thousand sixteen.

(b) A practitioner who has made a certification under this subdivision may submit an additional certification on or before the expiration of the current twelve-month certification period, for a maximum of three twelve-month certifications.

(c) A practitioner may make a certification under this subdivision regardless of whether he or she has previously received a waiver under paragraphs (c) of subdivision ten of this section.

* NB Repealed June 1, 2029