§ 281. Official New York state prescription forms. 1. In addition to the requirements of section sixty-eight hundred ten of the education law or article thirty-three of this chapter, all prescriptions written in this state by a person authorized by this state to issue such prescriptions shall be on serialized official New York state prescription forms provided by the department. Such forms shall be furnished to practitioners authorized to write prescriptions and to institutional dispensers, and shall be non-reproducible and non-transferable. The commissioner, in consultation with the commissioner of education, may promulgate emergency regulations for the electronic transmission of prescriptions from prescribers to pharmacists or for ordering and filling requirements of prescription drugs for prescriptions written for recipients eligible for medical assistance pursuant to title eleven of article five of the social services law, for participants in the program for elderly pharmaceutical insurance coverage pursuant to title three of article two of the elder law and for prescriptions written pursuant to article thirty-three of this chapter. Nothing in this section shall prohibit the commissioner in consultation with the commissioner of education from promulgating any additional emergency regulations in furtherance of this subdivision.

2. The commissioner, in consultation with the commissioner of education, shall promulgate regulations requiring that prescription forms and electronic prescriptions include: (a) a section wherein prescribers may indicate whether an individual is limited English proficient, as defined in section sixty-eight hundred twenty-nine of the education law; and (b) if the patient is limited English proficient, a line where the prescriber may specify the preferred language indicated by the patient. Failure to include such indication on the part of the prescriber shall not invalidate the prescription.

3. On or before December thirty-first, two thousand twelve, the commissioner shall promulgate regulations, in consultation with the commissioner of education, establishing standards for electronic prescriptions. Notwithstanding any other provision of this section or any other law to the contrary, effective three years subsequent to the date on which such regulations are promulgated, no person shall issue

any prescription in this state unless such prescription is made by electronic prescription from the person issuing the prescription to a pharmacy in accordance with such regulatory standards, except for prescriptions: (a) issued by veterinarians; (b) issued 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, not to exceed one year, from the requirement to use electronic prescribing, pursuant to a process established in regulation by the commissioner, in consultation with the commissioner of education, 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 of controlled substances does not exceed a five day supply if the controlled substance were 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.

3-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.

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

5. In the case of a prescription for a controlled substance issued by a practitioner under paragraph (d) or (e) of subdivision three 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.

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

* 7. Notwithstanding any other provision 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, in a manner specified by the department, 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 July first, two thousand sixteen, may begin March twenty-seven, 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 paragraph (c) of subdivision three of this section.

* NB Repealed June 1, 2029