



California's Electronic Prescribing Mandate

Assembly Bill (AB) 2789 of 2018¹ created a state-level mandate that all prescriptions must be transmitted electronically by January 1, 2022. The law applies to all physicians and almost all prescriptions, with very few exceptions. The California Medical Association (CMA) has compiled these frequently asked questions to help physicians understand their requirements under the new law.

1. When does the mandate take effect?

The law takes effect on January 1, 2022. This date aligns with the compliance date for the [Medicare mandate for electronic prescribing of controlled substances \(EPCS\)](#).

2. Does the mandate include prescriptions for controlled substances?

YES. The law stipulates that prescriptions for controlled substances are included in the electronic prescribing mandate. Physicians are required to comply with federal rules for EPCS. For more information on the federal rules regarding EPCS, please see [CMA health law library document #3207, "Electronic Prescribing."](#)

3. Are there exemptions for small, rural, or safety net practices?

NO. The law applies to all physicians, regardless of specialty, mode of practice, practice size, or geographic location. There are some limited exceptions that would allow certain prescriptions to be submitted in paper form, as outlined below.

4. What are the exceptions?

The following types of prescriptions are exempt from the electronic prescribing mandate:

- Controlled substances prescriptions for use by a patient who has a terminal illness.
- E-prescribing is not available due to a temporary technological or electrical failure.
- The prescribing physician is issuing a prescription to be dispensed by a pharmacy located outside California.
- The prescription is issued in a hospital emergency department or urgent care clinic and either the patient resides outside California, the patient resides outside the geographic area of the hospital, the patient is homeless or indigent and does not have a preferred pharmacy

¹ CMA opposed AB 2789. See, for example, this [Legislative Hot List](#) from the Summer of 2018.

MANDATORY ELECTRONIC PRESCRIBING (AB 2789)

or, the prescription is issued at a time when a patient's regular or preferred pharmacy is likely to be closed.

- The prescription is issued by a veterinarian.
- The prescription is for eyeglasses or contact lenses.
- The prescribing physician and the dispenser are the same entity.
- The prescription is issued by a prescribing physician under circumstances whereby the physician reasonably determines that it would be impractical for the patient to obtain controlled substances from an e-prescription in a timely manner, and the delay would adversely impact the patient's medical condition.
- The prescription that is issued includes elements not covered by the latest version of the [National Council for Prescription Drug Programs' SCRIPT standard](#).

If a physician believes that one of the above exceptions apply, they must document it in the patient record within 72 hours of filing the prescription.

5. If a patient received a prescription on paper prior to January 1, 2022, do refills of that prescription need to be filed electronically?

The law does not specifically address refills. CMA recommends that, if possible, physicians should submit refills electronically.

6. What if the pharmacy cannot receive an electronic prescription?

There are several options under the law in this case. The physician or the patient can submit the prescription to a different pharmacy. If changing pharmacies would cause an unreasonable delay in the patient receiving their medication, the physician should document it as such in the patient's record and proceed to file the prescription either on paper or by fax.

7. Does faxing a prescription count as "electronic prescribing?"

NO. The law requires physicians to submit prescriptions using "electronic data transmission" as defined in California Business & Professions Code Section 4040. The definition of electronic prescribing in that code section does not include faxing.

8. What are the penalties for noncompliance?

Physicians who fail to comply with the law will be referred to the [Medical Board of California](#). The medical board has published several physician communications outlining the requirements of the law but has not proposed any specific enforcement actions they might take.

MANDATORY ELECTRONIC PRESCRIBING (AB 2789)

9. What steps should a practice take now?

First and foremost, CMA recommend that practices assess your current capability for electronic prescribing, especially for controlled substances. Most major electronic health record (EHR) systems come with embedded electronic prescribing software that will support EPCS, but it may need to be turned on or require an upgrade. If a practice's EHR does not support EPCS, it may be necessary to find a stand-alone electronic prescribing system that does.

STAFF CONTACT: David T. Ford
Vice President, Health Information Technology
(916) 444-5532
dford@cmadocs.org