

The Commonwealth of Massachusetts

Executive Office of Health and Human Services

Department of Public Health

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To: Commissioner Robert Goldstein, MD, PhD

Members of the Public Health Council

From: James G. Lavery, Director, Bureau of Health Professions Licensure

David E. Johnson, Director, Drug Control Program

Date: February 14, 2024

RE: Overview of Proposed Amendments to Regulation 105 CMR 721.000: *Standards for Prescription Format and Security in Massachusetts*

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1. **Introduction**

The purpose of this memorandum is to provide the Public Health Council (PHC) with information about proposed amendments to 105 CMR 721.000: *Standards for Prescription Format and Security in Massachusetts.* This regulation sets forth standards governing prescription format and security in the Commonwealth. This regulation was last updated in December 2019 to implement legislation requiring most prescriptions to be issued in an electronic format (ePrescribing).

1. **Summary of Proposed Changes**

The proposed amendments address three goals:

1. Implement sections of chapter 260 of the acts of 2020, which authorizes independent practice for nurse practitioners who have at least two years of prior supervised prescriptive practice.
2. Update sections that were designed to create a grace period for implementation of ePrescribing, and that are no longer needed.
3. Align the regulation with the other Drug Control Program (DCP) regulations.

**105 CMR 721.020 (Prescription Formats)**

* Section (E) is updated to implement the new authorization for independent practice of nurse practitioners with more than two years of approved prescriptive practice. Proposed amendments exempt those practitioners from the requirement to list a supervising practitioner on their prescriptions when issued. To ease the filling of such prescriptions, the proposed amendment also makes it clear that it is not the obligation of the pharmacist to verify that a nurse who fails to list a supervising practitioner is or is not authorized for independent practice. The pharmacist may fill the prescription as presented, with no obligation to confirm the nurse’s independence.
  + This provision is similar to 721.007(C), under which a pharmacist who receives an otherwise valid Written or Oral Prescription is not required to verify that such Prescription properly falls under one of the ePrescribing exceptions.
* Section (H) was previously drafted to provide a one-year grace period for initial compliance with ePrescribing requirements. That period has since passed, so this section may be removed. Instead, a basic compliance clause is added to section (A), now that the grace period is over.

**105 CMR 721.070 (ePrescribing Exceptions)** This section was amended to provide two additional years for long term care facilities to develop a compliant ePrescribing system, in alignment with the federal extension of CMS ePrescribing requirements for these facilities.

**105 CMR 721.080 (Waiver Requirements)** This section was added to bring this regulation in alignment with the other DCP regulations, each of which includes a general waiver section that mirrors language proposed here. The section outlines a standard waiver process in addition to the time-limited ePrescribing waiver process covered by 105 CMR 721.075.

**105 CMR 721.090 (Severability)** This section was added to bring this regulation in alignment with the other regulations of the Department and DCP, which include a severability section that mirrors language proposed here.

1. **Next Steps**

The Department intends to conduct a public comment hearing and will then return to the PHC to report on testimony and any recommended changes to the proposed amendments. Following final approval by the PHC at a future meeting, the Department will file the final amendments with the Secretary of the Commonwealth.

The proposed amendments to 105 CMR 721.000 are attached to this memorandum.