

Frequently Asked Questions and Answers on
The I-STOP Duty to Consult and
Prescribing Controlled Substances in New York State

Q: If I plan to write a prescription that I know will be filled in another state or call in an oral prescription to a pharmacy in another state, must I follow New York rules with regard to the prescription of controlled substances or do the rules of the second state apply?

A: If you are licensed to practice medicine in the State of New York, you must comply with New York law, regardless of where the prescription is to be filled.

Q: If you are covering for another psychiatrist who is on vacation, are you permitted to issue prescriptions for controlled substances for the other psychiatrist's patients? In addition, are you required to examine the patient before prescribing an interim prescription?

A: DOH regulations permit an authorized practitioner to issue a controlled substance prescription as part of a continuing therapy in the temporary absence of the initial prescriber if the practitioner had either (i) direct access to the patient's medical record and such record warrants continued controlled substance prescribing or (ii) direct and adequate consultation with the initial prescriber. As we understand, it is fairly customary for a psychiatrist leaving on vacation to review a list of active patients and their current prescriptions with the covering psychiatrist. If the covering psychiatrist does not have access to the medical record, the covering psychiatrist is required to document the prescribing activity and transmit the prescription information to the initial prescriber upon their return. (See 10 NYCRR §80.63(3)).

In general, in an emergency situation, a practitioner may prescribe a controlled substance without first examining the patient as long as there is a previously established practitioner/patient relationship and the prescription does not exceed a five day supply. (See 10 NYCRR §80.63(5)). When covering for another psychiatrist, you "stand in the shoes" of the initial prescriber. If it would have been appropriate for the initial prescriber to issue a prescription without examination under the circumstances presented, then it would also be permissible for the covering psychiatrist to do so, as long as the PMP is consulted prior to the prescription being issued.

Q: Will New York prescriptions filled in other states be reported on the PMP?

A: No, at this time, New York prescriptions filled in pharmacies located in other states will not be reported on the PMP. As a result, prescriptions filled in other states may create a gap in a patient's PMP prescribing history. However, even if you know that a prescription will be filled in another state, you are still obligated to consult the PMP prior to issuing the prescription.

Q: Can practitioners access the PMP from an iphone?

A: Practitioners may access the PMP by means of any device with high-speed internet access, including desktop computers, laptop computers, tablets, smart phones and other similar devices. In addition, BNE may be developing a smart phone app for PMP access.

Q: What is the definition of the term "narcotic drug?"

A: Under Article 33 of the Public Health Law, "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
- (b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (a), but not including the isoquinoline alkaloids of opium;
- (c) opium poppy and poppy straw.

Q: Under DOH regulations, the use of "Code A" permits practitioners to write up to a three-month supply of a controlled substance for patients diagnosed with Panic Disorder. Does Code A also apply to patients diagnosed with Generalized Anxiety Disorder?

A: No, Code A applies *only* to Panic Disorder.

Q: Is it permissible to write a prescription for future use, dated the day it is written, but with the words "Do not fill until..."?

A: No, this would violate the general prohibition against prescriptions that exceed a 30-day supply (some exceptions apply). Prescriptions for controlled substances must be dated the day they are issued and may not be held for future use.

Q: Is it permissible to consult the PMP with respect to an individual who has contacted your office for consultation prior to the first visit, intake or evaluation, if based upon the information you received from the individual you suspect a prescription for controlled substance may be appropriate?

A: Yes, practitioners are permitted to consult the PMP at any time in connection with treatment, or anticipated treatment, of an existing or new patient. Section 2 of the I-STOP statute, which establishes the mandatory duty to consult, also states that practitioners may consult the registry at their option, prior to prescribing or dispensing any controlled substance. If you consult the PMP with regard to an individual who fails to show up for a first appointment or with whom you do not ultimately enter into a treatment relationship, it would be advisable to

keep a record of the interaction, to substantiate your reasons for accessing the registry at that point in time.

Q: Under New York State law, what is the greatest duration of time that can pass between each face-to-face appointment with a patient taking controlled substances?

A: New York State law does not establish a minimum required treatment frequency for patients receiving controlled substances. DOH regulations state: "Once the initial examination has been completed, the frequency and necessity for future examinations prior to prescribing, either for the same acute or chronic condition, will be made by the practitioner utilizing generally accepted medical standards, including taking into account the drug to be prescribed and the patient's condition, history and disposition toward the use of controlled substances." Therefore, the amount of time between face-to-face appointments is a matter of individual clinical judgment. At the same time, practitioners must comply with rules regarding the timing and supply of controlled substance prescriptions as well as consult the PMP prior to prescribing.