

**CHAPTER 61-04-05**  
**ELECTRONIC TRANSMISSION OF PRESCRIPTIONS**

Section

61-04-05-01	Facsimile Transmission of Prescriptions
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**61-04-05-01. Facsimile transmission of prescriptions.**

In addition to the requirements in section 61-04-05-02, a prescription order may be transmitted from an authorized prescribing practitioner to a pharmacy under the following provisions:

1. Using facsimile equipment to transmit schedule II controlled substance prescriptions is not allowed except when the patient is a hospice patient or resides in a licensed long-term care facility, a facsimile may serve as the pharmacy's original prescription, if it has been signed by the practitioner before faxing and is in compliance with subsection 3.
2. Schedule III, IV, and V controlled substances prescriptions received by facsimile equipment may serve as the pharmacy's original prescription, if it has been signed by the practitioner before faxing and is in compliance with subsection 3.
3. A facsimile copy prescription must be reduced to writing either manually or by other process (computer, photocopying, etc.) which produces a nonfading document and proper notation on the file copy must indicate that the prescription order was initially received by facsimile equipment.
4. The receiving facsimile machine must be in the prescription department of the pharmacy to protect patient-pharmacist authorized prescribing practitioner confidentiality and security.

**History:** Effective October 1, 1993; amended effective October 1, 1999; January 1, 2005.

**General Authority:** NDCC 28-32-02, 43-15-10(9)(12)(14)

**Law Implemented:** NDCC 28-32-03, 43-15-10(9)(12)(14)

**61-04-05-02. Electronic transmission of prescriptions.**

The terms "electronic", "electronic record", "electronic signature", and "security procedure" have the meaning ascribed to them in North Dakota Century Code chapter 9-16-01.

A prescription order may be transmitted electronically from an authorized prescribing practitioner to a pharmacy under the following provisions:

1. Actual transmittal is done by or under the supervision of the authorized prescribing practitioner or the practitioner's authorized agent.
2. Practitioners or their authorized agents transmitting medication orders using electronic equipment are obligated to provide voice verification when requested by the pharmacist receiving the medication order. If requested voice verification is refused, the electronically transmitted prescription may not be filled.
3. Pharmacists are precluded from supplying or leasing facsimile equipment, or computer hardware or software, to prescribing practitioners, hospitals, nursing homes, or any medical provider or facility.
4. Using facsimile equipment or other electronic transmission to circumvent documentation, authenticity, verification, or other standards of pharmacy practice or drug diversion will be considered unprofessional conduct under chapter 61-04-04.

5. The board of pharmacy recognizes that the electronic transmission of prescriptions will depend on the type of pharmaceutical services offered, and therefore, variations of the requirements for electronic transmission of prescriptions may be granted by the state board of pharmacy.
6. A third-party intermediary may be used to facilitate transmission of the prescription order as long as the intent of the prescriber is not changed and procedures are in place to protect patient confidentiality.

**History:** Effective January 1, 2005.

**General Authority:** NDCC 28-32-02, 43-15-10(9)(12)(14)

**Law Implemented:** NDCC 28-32-03, 43-15-10(9)(12)(14)

#### **61-04-05-03. Computer transmission of prescriptions.**

In addition to the requirements in section 61-04-05-02, a prescription order may be transmitted from an authorized prescribing practitioner to a pharmacy under the following provisions:

1. Schedule II, III, IV, and V controlled substances prescriptions received via computer require an electronic signature by the authorized prescriber, as defined in North Dakota Century Code section 9-16-01, for the prescription to serve as the original copy.
2. Transmission of schedule II controlled substance prescriptions via computer is allowed when the prescribing system and the pharmacy system are in compliance with drug enforcement agency requirements for e-prescribing.
3. The required legend must appear on the practitioner's prescription screen. The practitioner must take a specific overt action to include the "brand medically necessary" language with the electronic transmission as set forth in subsections 3 and 4 of North Dakota Century Code section 19-02.1-14.1. For example, the practitioner or the practitioner's agent must type out "brand medically necessary" letter by letter.

**History:** Effective January 1, 2005; amended effective July 1, 2011.

**General Authority:** NDCC 28-32-02, 43-15-10(9)(12)(14)

**Law Implemented:** NDCC 28-32-03, 43-15-10(9)(12)(14)