

AGENT OF A PRESCRIBER FOR CREATING A PRESCRIPTION

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North Dakota Law is silent on who may create a prescription for a prescriber's signature. Any individual the prescriber designates as their agent may prepare a prescription for the prescriber's signature. The signature must remain the sole purview of the prescriber. That means that if a hand-written prescription, a type-written prescription, or a fax prescription is generated, the prescriber must take pen in hand and sign that prescription, before it can be considered a legitimate prescription that can be transmitted to a pharmacy for dispensing.

In the case of an electronic prescription, that prescription, under North Dakota Law, can again be prepared by the prescriber's agent, who can be anyone the prescriber designates. The electronic signature of the prescriber must remain secure and the password or key to that electronic signature must be the sole purview of that prescriber. In no case can a prescriber ever delegate the signing of a prescription to another individual.

On the other hand, a nurse licensed under the Nurse Practice Act can transmit a prescription to a pharmacy orally, in person or by telephone, if requested to do so by the prescriber. There are also other specific individual professionals authorized by the law, such as dental hygienists, dental assistants etc. The specific individuals listed in North Dakota Century Code 43-15-31.3 Oral Transmission of prescriptions are: *"An oral transmission of a prescription drug may be accepted and dispensed by a pharmacist or licensed pharmacist intern if received from a practitioner, or a nurse licensed under chapter 43-12.1 who is authorized by the practitioner to orally transmit the prescription, or a registered dental hygienist or a registered dental assistant who is authorized by the supervising dentist to orally transmit the prescription. The practitioner shall document the order for oral transmission in the patient's records. Only a licensed pharmacist or a licensed pharmacist intern or a registered pharmacy technician may receive an orally transmitted new or refill prescription."*

However, the Drug Enforcement Administration [DEA] has some specific requirements for who can be the agent for a prescription when generating a controlled substance prescription. As a general rule, that individual must work for the physician, or must work for the same employer as the physician, or have a specific agreement to act as that prescriber's agent. This agreement should be in writing and signed by both the prescriber and the nurse [prescriber's designated agent]. This is particularly important when nurses in North Dakota at nursing homes are transmitting controlled substance prescriptions that have been called in by the prescriber. Additionally, the DEA has decided that the pharmacist cannot be the agent of the prescriber without a specific written agreement. That means the pharmacy cannot create a prescription to be faxed to the prescriber for a signature. The pharmacy must transmit the information about

what the patient is on, but the prescriber themselves, or their specific designated agent, must create the prescription before signing and returning it by fax to the pharmacy.

A prescription order for non-controlled pharmaceuticals must contain the following items from North Dakota Administrative Code 61-04-06-02 - *The patient hard copy prescription form for noncontrolled drugs must contain the following:*

1. *The name and address of the patient;*
2. *The date of issuance;*
3. *The name of the drug;*
4. *The quantity;*
5. *The strength;*
6. *Adequate directions for use;*
7. *The prescriber's name, either printed or stamped;*
8. *The prescriber's indication of refill authorization;*
9. *A reminder legend in at least six-point uppercase print stating, "In order to require that a brand name product be dispensed, the practitioner must hand write the words 'brand medically necessary'"; and*
10. *The signature of the prescriber, unless an oral or telephoned prescription.*

A prescription order for controlled pharmaceuticals must contain the following items from North Dakota Administrative Code 61-04-06-03 - *The patient hard copy prescription form for controlled drugs must contain the following:*

1. *The name and address of the patient;*
2. *The date of issuance;*
3. *The name of the drug;*
4. *The quantity;*
5. *The strength;*
6. *Adequate directions for use;*
7. *The prescriber's name, either printed or stamped;*
8. *The prescriber's indication of refill authorization;*
9. *A reminder legend in at least six-point uppercase print stating, "In order to require that a brand name product be dispensed, the practitioner must hand write the words 'brand medically necessary'";*
10. *The DEA number of the prescriber; and*
11. *The signature of the prescriber.*