CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Audits and Investigations
(Amendment)

902 KAR 55:095. Prescription for Schedule II controlled substance – authorization of oral prescriptions for immediate administration, facsimile transmission, or partial filling.

RELATES TO: KRS 216.510(1), 216B.042, 218A.060, 218A.180, 218A.200, 21 C.F.R. 290.10, 1306.05, 1306.11-1306.14

STATUTORY AUTHORITY: KRS 194A.050, 218A.180(1), 218A.250

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.250 requires the Cabinet for Health and Family Services to promulgate administrative regulations for carrying out the provisions of KRS Chapter 218A relating to controlled substances. This administrative regulation permits the transmission of prescriptions for Schedule II controlled substances between the prescriber and dispenser via oral authorization for immediate administration or by facsimile to facilitate the delivery of medications to certain patients whose need for medication shall be initiated or changed quickly. This administrative regulation also permits the partial filling of prescriptions for Schedule II controlled substances if requested by the patient or prescribing practitioner to patients whose medication needs may be long term but who wish to store limited quantities or in situations where the pharmacy is unable to supply the full quantity prescribed.

Section 1. Definitions.

(1) "Hospice" means a hospice program licensed pursuant to KRS 216B.042.

(2) "Immediate administration" means an emergency situation in which the prescribing practitioner determines the following criteria exists for the purposes of authorizing an oral prescription for a Schedule II controlled substance:

(a) Immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user;

(b) No appropriate alternative treatment is available, including administration of a drug that is not a Schedule II controlled substance; and

(c) It is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the substance prior to the dispensing.

(3) "Long-term care facility" or "LTCF" is defined by KRS 216.535(1)(a) and, pursuant to KRS 218A.180(1), shall not include a family care home or personal care home.

Section 2. Oral Prescription Only for Immediate Administration.

(1) A pharmacist may dispense a Schedule II controlled substance upon receiving oral authorization from a prescribing practitioner under the following conditions:

(a) Pursuant to KRS 218A.180(1), the prescription shall be needed for immediate administration to a patient enrolled in a hospice program or a resident of a long-term care facility;

(b) The quantity prescribed and dispensed shall be limited to the amount adequate to treat the patient or resident during the period in which immediate administration is necessary; and

(c) The prescribing practitioner personally communicates the oral prescription.

(2) Except for the signature of the prescribing practitioner, the prescription shall:

(a) Be immediately reduced to writing by the pharmacist in accordance with KRS 218A.180(6); and

(b) Contain all information required by KRS 218A.180(5) and 21 C.F.R. 1306.05.

(3) If the prescribing practitioner is not known to the pharmacist, the pharmacist shall make a reasonable effort to determine that the oral authorization came from a registered practitioner, which may include:

(a) A callback to the prescribing practitioner using the practitioner's phone number as listed in the telephone directory; or

(b) Other good faith efforts to ensure the practitioner's identity.

(4) Within seven (7) days after authorizing an oral prescription for immediate administration, the prescribing practitioner shall cause a written or electronic prescription for the emergency quantity prescribed to be delivered to the dispensing pharmacist and demonstrate compliance with the requirements established in this subsection.

(a) In addition to conforming to the requirements of KRS 218A.180(5), ~~[and]~~21 C.F.R. 1306.05, 902 KAR 55:105 and 902 KAR 55:130, the prescription shall:

1. Have written on its face "Authorization for Emergency Dispensing" and the date of the oral order; and

2. Be delivered to the pharmacist:

a. In person;

b. By mail; or

c. Electronically pursuant to paragraph (d) of this subsection.

(b) If delivered by mail, the prescription shall be postmarked within seven (7) days of the date of the oral prescription for immediate administration.

(c) Upon receipt, the dispensing pharmacist shall attach the paper prescription to the oral prescription for immediate administration that was earlier reduced to writing.

(d) For electronic prescriptions, the pharmacist shall annotate the record of the prescription with the:

1. Original authorization; and

2. Date of the oral order.

(e) If the prescribing practitioner fails to deliver a written prescription to the pharmacist in accordance with this subsection, the pharmacist shall notify the nearest Drug Enforcement Administration (DEA) office.

(f) Failure of the pharmacist to comply with paragraph (e) of this subsection shall void the authority conferred by this subsection to dispense without a written prescription of a prescribing practitioner.

(5) A central fill pharmacy shall not be authorized under subsection (4) of this section to prepare prescriptions for a Schedule II controlled substance upon receiving an oral authorization from a retail pharmacist or a prescribing practitioner.

(6) Dispensing a Schedule II controlled substance beyond the period necessary for immediate administration shall be pursuant to a written or electronic prescription signed by the prescribing practitioner.

Section 3. Transmission by Facsimile of a Prescription for a Schedule II Controlled Substance.

(1) A prescription prepared in accordance with KRS 218A.180, 21 C.F.R. 1306.05, 902 KAR 55:080, and 902 KAR 55:105, Section 2, for a Schedule II narcotic substance to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion may be transmitted by a practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(2) A prescription prepared in accordance with KRS 218A.180, 21 C.F.R. 1306.05, 902 KAR 55:080, and 902 KAR 55:105, Section 2, for a Schedule II controlled substance for

a resident of a long-term care facility may be transmitted by a practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(3)

(a) A prescription prepared in accordance with KRS 218A.180, 21 C.F.R. 1306.05, 902 KAR 55:080, and 902 KAR 55:105, Section 2, for a Schedule II controlled substance for a hospice patient may be transmitted by a practitioner or the practitioner's agent to the dispensing pharmacy by facsimile.

(b) The practitioner or the practitioner's agent shall note on the prescription that the patient is a hospice patient.

(4) The facsimile prescription shall:

(a) Serve as the original written prescription for the purposes of subsections (1) to (3) of this section and as allowed by KRS 218A.180(1) for the dispensing of a Schedule II controlled substance; and

(b) Be maintained in the same manner as an original prescription.

Section 4. Partial Filling of a Prescription for a Schedule II Controlled Substance.

(1) Except as provided in subsections (2) and (3) of this section, a pharmacist may partially fill a prescription for a controlled substance listed in Schedule II if the pharmacist:

(a) Is unable to dispense the full quantity called for in a written prescription or oral prescription for immediate administration as authorized by Section 2 of this administrative regulation;

(b) Makes a notation of the quantity dispensed:

1. On the face of the written prescription;
2. In the written record of the oral prescription for immediate administration; or
3. In the electronic prescription record; and

(c) Dispenses the remaining portion of the prescription within seventy-two (72) hours of the first partial filling. If the remaining portion is not or cannot be filled within the seventy-two (72) hour period, the pharmacist shall notify the prescribing practitioner. No further quantity shall be dispensed without a new written prescription.

(2) A prescription for a Schedule II controlled substance written for a patient in a long-term care facility or for a patient with a documented terminal illness may be dispensed in partial quantities, including individual dosage units, if:

(a) The pharmacist records on the prescription whether the patient is "terminally ill" or an "LTCF patient";

(b) The pharmacist records on the back of the written prescription or on another appropriate record, uniformly maintained and readily retrievable, the following data:

1. The date of the partial dispensing;
2. The quantity dispensed;
3. The remaining quantity authorized to be dispensed; and
4. The identification of the dispensing pharmacist;

(c) The pharmacist contacts the practitioner prior to dispensing the partial quantity if there is any question whether the patient is terminally ill because both the pharmacist and the prescribing practitioner have a corresponding responsibility to assure that the controlled substance is for a terminally ill patient;

(d) The total quantity dispensed in all partial dispensings does not exceed the quantity prescribed;

(e) The partial dispensing occurs at the pharmacy where the original prescription is on file; and

(f) No dispensing occurs beyond sixty (60) days from date of issuance of the prescription.

(3) For a patient who is not terminally ill or a resident of a long-term care facility, a written prescription for a Schedule II controlled substance may be dispensed in partial quantities in accordance with the requirements established in this subsection.

(a) The partial dispensing shall be requested by the patient or the prescribing practitioner who issued the prescription.

(b) Dispensing shall not occur beyond thirty (30) days from the date of issuance of the prescription.

(c) The pharmacist shall comply with requirements established in subsection (2)(b), (d), and (e) of this section.

(4) The information required by this section pertaining to current Schedule II prescriptions may be maintained in a computerized system if the system has the capability to permit:

(a) Output (display or printout) of the:

1. Original prescription number;
2. Date of issue;
3. Identification of the prescribing practitioner;
4. Identification of the patient;
5. Address of the long-term care facility, hospital, or residence of the patient, if applicable;
6. Identification of medication authorized, including:
   a. Dosage;
   b. Form;
   c. Strength; and
   d. Quantity;
7. Listing of the partial fillings that have been dispensed under each prescription; and
8. Information required in 21 C.F.R. 1306.13(b);

(b) Immediate (real time) updating of the prescription record each time a partial filling of the prescription is conducted; and

(c) Retrieval of partially filled Schedule II prescription information that is the same as required by KRS 218A.180(7) for Schedule III and IV prescription refill information.

~~[(5)] [If a record keeping system is being used that does not permit refills of Schedule II controlled substances, a new prescription number for the partial dispensing shall be permitted.]~~

(5) ~~[(6)]~~ A prescription that is partially filled and does not comply with the requirements of this section shall be deemed to have been filled in violation of KRS 218A.200(3), (4) and 21 C.F.R. 1306.13.

TRICIA STEWARD, Inspector General
STEVEN J STACK, MD, MBA, Secretary

APPROVED BY AGENCY: September 23, 2025
FILED WITH LRC: January 7, 2026 at 12:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 23, 2026, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 16, 2026, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the

public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation through March 31, 2026. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Valerie Moore and Krista Quarles Phone Number: (502) 564-7476 Email: CHFSregs@ky.gov

Subject Headings:Controlled Substances, Drugs and Medicines, Pharmacy

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation implements the dispensing of Schedule II controlled substances for emergency or immediate need pursuant to oral, electronic, and facsimile prescriptions, as well as partial filling of prescriptions for Schedule II controlled substances, as authorized by KRS 218A.180. Regulation 902 KAR 55:095 permits the transmission of prescriptions for Schedule II controlled substances between the prescriber and dispenser via oral authorization for immediate administration or by facsimile to facilitate the delivery of medications to certain patients whose need for medication shall be initiated or quickly changed. This administrative regulation also permits the partial filling of prescriptions for Schedule II controlled substances if requested by the patient or prescribing practitioner to patients whose medication needs may be long term but who wish to store limited quantities or in situations where the pharmacy is unable to supply the full quantity prescribed.

(b) The necessity of this administrative regulation:

KRS 218A.250 requires the Cabinet for Health and Family Services to promulgate administrative regulations for carrying out the provisions of KRS Chapter 218A relating to controlled substances. KRS 218A.180 (1) calls for regulations to be promulgated by the cabinet for facsimile prescriptions. This is not a new regulation, but it does contain amendments that will clean up certain provisions to align with revisions made to related statute KRS 218A.180, and provisions in federal regulation 21 C.F.R. 1306.13.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 218A.180(1) calls for regulations to be promulgated by the cabinet for facsimile prescriptions. This regulation clarifies the following topics which are authorized by KRS 218A.180: Oral Prescription Only for Immediate Administration, Transmission by Facsimile of a Prescription for a Schedule II Controlled Substance, Partial Filling of a Prescription for a Schedule II Controlled Substance.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation defines terms used in KRS 218A.180 to clarify the applicable healthcare facility types, the conditions under which oral and facsimile prescriptions for Schedule II controlled substances would be allowed, and the conditions under which partial filling of a prescription for a Schedule II controlled substance would be allowed. This regulation provides guidance for Oral Prescription Only for Immediate Administration, Transmission by Facsimile of a Prescription for a Schedule II Controlled Substance, and Partial Filling of a Prescription for a Schedule II Controlled Substance, which is authorized by KRS 218A.180.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
The proposed changes to 905 KAR 55:095 aligns these regulations with the addition of the term "electronic" prescriptions, which was previously added to KRS 218A.180 but never added to 905 KAR 55:095. Further, the proposed amendment adds references to "902 KAR 55:105 and 902 KAR 55:130" to clarify written, facsimile, oral, and electronic prescription requirements. Federal regulations were already referenced. Kentucky regulations are being added for completeness. Additionally, the proposed amendment eliminates permission to create a new prescription number for the partial dispensing of a Schedule II prescription which is in conflict with federal regulation 21 C.F.R. 1306.13 that prohibits this action.

(b) The necessity of the amendment to this administrative regulation:
This amendment is to be considered a "clean-up" to the previous administrative regulation and aligns the regulation with statute.

(c) How the amendment conforms to the content of the authorizing statutes:
Kentucky statute KRS 218A.180 (1) requires oral or facsimile prescriptions dispensed only per administrative regulation. This administrative regulation provides that guidance.

(d) How the amendment will assist in the effective administration of the statutes:
The proposed changes to 905 KAR 55:095 aligns these regulations with the addition of the term "electronic" prescriptions, which was previously added to KRS 218A.180 but never added to 905 KAR 55:095. Additionally, the proposed amendment adds references to "902 KAR 55:105 and 902 KAR 55:130" to clarify written, facsimile, oral, and electronic prescription requirements. Federal regulations were already referenced. Kentucky regulations are being added for completeness. Furthermore, the proposed amendment eliminates permission to create a new prescription number for the partial dispensing of a Schedule II prescription which is in conflict with federal regulation 21 C.F.R. 1306.13 that prohibits this action.

(3) Does this administrative regulation or amendment implement legislation from the previous five years?No

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
This regulation applies to pharmacies and pharmacists, authorized prescribers of Schedule II controlled substances, hospice programs, and long-term care facilities (as defined by KRS 216.535, excluding a family care home, assisted living community as defined in KRS 194A.700, or personal care home).

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment:
No additional actions will be necessary.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):
No additional cost will be required as a result of this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):
This amendment to this administrative regulation will only align regulation with statute.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:
No additional expenditure is expected.

(b) On a continuing basis:
No additional expenditure is anticipated.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:
N/A

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:
There will be no increase in fees in the implementation of this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:
No fees are established by this administrative regulation.

(10) TIERING: Is tiering applied?
Tiering is not applied by this regulation

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.
KRS 194A.050, KRS 218A.250, KRS 218A.180(1) and 218.180(4)

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:
The Office of Inspector General, Division of Audits and Investigations.

(a) Estimate the following for the first year:

Expenditures:No additional expenditures are anticipated.

Revenues:No additional revenue is anticipated.

Cost Savings:No additional cost savings is anticipated. (b) How will expenditures, revenue, or cost savings differ in subsequent years? N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
Additional expenditures, revenues or cost savings aren't anticipated from the change to this administrative regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):
Prescribers, pharmacies, entities who enforce compliance with laws to provide controlled substances.

(a) Estimate the following for the first year:

Expenditures:No additional expenditures are anticipated from the amendment of this administrative regulation.

Revenues:No additional revenue is anticipated from this administrative regulation.

Cost Savings:No additional cost savings is anticipated from the amendment of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
Expenditures, revenues, or cost savings will not differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures:No additional expenditures are anticipated by the change to this administrative regulation.

Revenues:Additional revenue isn't expected by the amendment to this administrative regulation.

Cost Savings:No change in cost is anticipated by the update to this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?
Expenditures, revenues, or cost savings will not differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

This administrative regulation is considered a "clean-up" and will have no fiscal impact on any party involved.

(b) Methodology and resources used to determine the fiscal impact:
N/A

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate)
This administrative regulation is anticipated to have no impact on any party involved.

(b) The methodology and resources used to reach this conclusion:
N/A.