



# PROPOSED RULE MAKING

## CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

**Agency:** Department of Health- Board of Pharmacy

- Preproposal Statement of Inquiry was filed as WSR ; or
- Expedited Rule Making--Proposed notice was filed as WSR ; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

**Title of rule and other identifying information:** (Describe Subject)

WAC 246-870-060 What are the board requirements for electronic prescription transmission systems? Amending the rule to include the use of tamper resistant paper and the manual signature of the prescriber.

**Hearing location(s):** Department of Health  
310 Israel Road SE  
Room 152/153  
Tumwater WA 98501

Date: 4/7/2011

Time: 1:00 p.m.

**Submit written comments to:**

Name: Doreen E. Beebe  
Address: Washington State Board of Pharmacy  
PO Box 47863  
Olympia WA 98504-7863  
Website: <http://www3.doh.wa.gov/policyreview/>  
fax (360) 236-2901 by (date) 03/31/2011

**Assistance for persons with disabilities:** Contact

Doreen E. Beebe by 04/04/2011

TTY (800) 833-6388 or () 711

**Date of intended adoption:** 04/07/2011

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The proposed rule change will amend WAC 246-870-060(6) to require the prescriber to manually sign the hard copy of a prescription printed from an electronic prescription transmission system. The change will make the rule language consistent with the tamper-resistant prescription law (RCW 18.64.500).

**Reasons supporting proposal:**

The current rule as written is in conflict with Chapter 328, Laws of 2009, House Bill (HB) 2014. The law, effective July 1, 2010, requires that if a hard copy of an electronically generated prescription is given directly to the patient, the prescription must be manually signed and must be on approved tamper-resistant paper.

**Statutory authority for adoption:**

RCW 18.64.005

**Statute being implemented:**

RCW 18.64.500

**Is rule necessary because of a:**

- Federal Law?  Yes  No
- Federal Court Decision?  Yes  No
- State Court Decision?  Yes  No

If yes, CITATION:

**DATE**

February 16, 2011

**NAME** (type or print)

Susan Teil Boyer

**SIGNATURE**

**TITLE**

Executive Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** February 16, 2011

**TIME:** 10:05 AM

**WSR 11-05-094**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None

**Name of proponent:** (person or organization) Washington State Department of Health Board of Pharmacy

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting..... Doreen E. Beebe	310 Israel Rd SE, Tumwater WA 98501	(360) 236-4834
Implementation.... Susan Teil Boyer	310 Israel Rd SE, Tumwater WA 98501	(360) 236-4853
Enforcement..... Susan Teil Boyer	310 Israel Rd SE, Tumwater WA 98501	(360) 236-4853

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

A small business economic impact statement (SBEIS) was not prepared. Under RCW 19.85.025 and 34.05.310(4)(e), a SBEIS is not required for a proposed rule where the content of the rule is explicitly and specifically dictated by statute.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No: Please explain: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

AMENDATORY SECTION (Amending WSR 03-24-070, filed 12/1/03, effective 1/1/04)

**WAC 246-870-060 What are the board requirements for electronic prescription transmission systems?** (1) Systems for the electronic transmission of prescription information must be approved by the board. Board approval of systems will be for a period of three years. The board will maintain a list of approved systems.

(2) Systems in which prescriptions are transmitted from the prescriber's facsimile machine to the pharmacy facsimile machine do not require board approval.

(3) Each system shall have policies and procedures on the electronic transmission of prescription information available that address the following:

(a) Patient access. The system may not restrict the patient's access to the pharmacy of their choice.

(b) Security. The system shall have security and system safeguard designed to prevent and detect unauthorized access, modification, or manipulation of prescription information. Accordingly, the system should include:

(i) Documented formal procedures for selecting and executing security measures;

(ii) Physical safeguards to protect computer systems and other pertinent equipment from intrusion;

(iii) Processes to protect, control and audit access to confidential patient information; and

(iv) Processes to prevent unauthorized access to the data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or CD media.

(c) Systems that utilize intermediaries in the electronic communication or processing of prescriptions such as third party payers shall be responsible to insure that their contracts with these intermediaries require security measures that are equal to or better than those provided by this rule and prohibit the modification of any prescription record after it has been transmitted by the practitioner to the pharmacist.

(d) Confidentiality of patient records. The system shall maintain the confidentiality of patient information in accordance with the requirements of chapters 18.64, 69.50, and 70.02 RCW Health Care Information Act and any applicable federal law.

(e) Authentication. To be valid prescriptions transmitted by an authorized prescriber from computer to fax machine or from computer to computer must use an electronic signature or digital signature.

(4) The system shall provide for the transmission and

retention of the information by the sender and the receiver of the prescription as required in WAC 246-870-030.

(5) The system must authenticate the sender's authority and credentials to transmit a prescription.

(a) The system shall provide an audit trail of all prescriptions electronically transmitted that documents for retrieval all actions and persons who have acted on a prescription, including authorized delegation of transmission;

(b) The right of the Washington state board of pharmacy to access electronically submitted prescriptions for purposes of investigations in disciplinary proceedings.

(6) If a hard copy of an electronic prescription (, generated from the electronic prescription system, is printed on security paper that insures it is not subject to copying or alteration, an electronic signature may be substituted for a manual signature) is given directly to the patient, the prescription must be printed on approved tamper-resistant paper and must be manually signed by the prescriber as required in RCW 18.64.500.