Former N.J.A.C. 13:39–7.10, Return of prescription medication, recodified to N.J.A.C. 13:39–7.16.

13:39–7.11 Electronically transmitted prescriptions

(a) A pharmacist may accept for dispensing an electronic prescription, consistent with the requirements of this section. For purposes of this section, "electronic prescription" means a prescription which is transmitted by a computer device in a secure manner, including computer to computer and computer to facsimile transmissions.

(b) A pharmacist shall not fill an electronic prescription transmitted by anyone other than a practitioner authorized to prescribe medications pursuant to N.J.S.A. 45:14–14, or the prescribing practitioner's authorized agent. If the electronic prescription is transmitted by the practitioner's authorized agent, the transmission shall include the full name and title of the agent.

(c) The permitholder shall ensure that the electronic system utilized to receive prescriptions shall have adequate security and system safeguards designed to prevent and detect unauthorized access, modification or manipulation of the prescriptions.

(d) The computer or device used to receive electronically transmitted prescriptions shall be located within the pharmacy prescription area.

(e) An electronic prescription shall contain all information required to be included on a written prescription pursuant to New Jersey State Board of Medical Examiners rule N.J.A.C. 13:35–7.2(d), except that a handwritten original signature and an NJPB shall not be required for the prescription.

(f) A pharmacist shall seek verbal verification of an electronic prescription from the prescribing practitioner whenever the pharmacist has reason to question the authenticity, accuracy or appropriateness of the prescription. A pharmacist may accept verbal verification regarding the authenticity or legibility of an electronic prescription from a prescribing practitioner's authorized agent. A pharmacist shall not fill the electronic prescription where there is a question regarding authenticity, accuracy or appropriateness if such verification is not provided.

(g) A pharmacist shall retain a printed copy of an electronic prescription, or a record of an electronic prescription that is readily retrievable and printable, for a minimum of five years pursuant to N.J.S.A. 45:14–15. The printed copy shall be of non-fading legibility.

(h) A pharmacist may fill a prescription for a Schedule II controlled substance transmitted electronically, provided that the original signed prescription is presented to the pharmacist prior to the dispensing of the controlled substance. If permitted by Federal law, and in accordance with Federal requirements, an electronic prescription shall serve as the original signed prescription.

(i) A pharmacist may fill a prescription for a Schedule III, IV or V controlled substance transmitted electronically, provided that the pharmacist has obtained the original signed prescription, an oral prescription, or a facsimile prescription from the prescribing practitioner or the prescribing practitioner's authorized agent prior to the dispensing. If permitted by Federal law, and in accordance with Federal requirements, an electronic prescription shall serve as the original signed prescription.

(j) A pharmacist shall not enter into any agreement with a prescribing practitioner that requires that electronic prescriptions be transmitted to a particular pharmacy or in any way denies a patient the right to have his or her prescription transmitted electronically to a pharmacy of the patient's choice.

(k) Two or more permit holders may establish a common electronic filing system to maintain required dispensing information.

(*l*) Nothing in this section shall be construed to preclude the electronic transfer of information between pharmacies for purposes of transferring prescriptions pursuant to N.J.A.C. 13:39–7.8.

New Rule, R.2003 d.373, effective September 15, 2003.
See: 34 N.J.R. 3064(a), 35 N.J.R. 4290(a).
Recodified from N.J.A.C. 13:39–5.8B and amended by R.2005 d.25, effective January 18, 2005.
See: 36 N.J.R. 3345(a), 37 N.J.R. 295(a).
Added (k) and (*l*). Former N.J.A.C. 13:39–7.11, Prescription balances, scales, weights and automatic counting devices, recodified to N.J.A.C. 13:39–5.11.

13:39–7.12 Labeling

(a) The dispensed container for any product shall bear a permanently affixed label with at least the following information:

1. The name of the registered pahrmacist-in-charge;
2. The pharmacy name and address;
3. The pharmacy telephone number;
4. The brand name or generic name;
   i. If generic, the name of the manufacturer;
5. The date upon which prescription medication is dispensed;
6. A CDS cautionary label;
7. The patient name;
8. The initials of dispensing pharmacist;
9. The prescriber's name;
10. The prescription number;
11. Directions for use; and
12. The expiration date, if dispensed in any packaging other than the manufacturer's original packaging.
   i. For purposes of this paragraph, "expiration date" means the earlier of one year from the date of dispensing or the expiration date on the manufacturer's container.

(b) In addition to the requirements set forth in (a) above, the dispensed container for any product shall bear all auxiliary labeling as recommended by the manufacturer.

(c) When, in the judgment of the pharmacist, directions to the patient or cautionary messages are necessary, either for clarification or to ensure proper administration, storage or use of the medication, the pharmacist may add such directions or cautionary messages to those indicated by the prescriber on the original prescription.

New Rule, R.1999 d.196, effective June 21, 1999.
See: 30 N.J.R. 4113(a), 31 N.J.R. 253(a), 31 N.J.R. 1618(a).
Recodified from N.J.A.C. 13:39–5.9 and amended by R.2005 d.25, effective January 18, 2005.
See: 36 N.J.R. 3345(a), 37 N.J.R. 295(a).
Rewrote (b) and added (c). Former N.J.A.C. 13:39–7.12, Disposal of unwanted drugs, recodified to N.J.A.C. 13:39–7.17.

13:39–7.13 Professional judgment in dispensing drugs

The pharmacist shall have the right to refuse to fill a prescription if, in his or her professional judgment, the prescription is outside the scope of practice of the prescriber; or if the pharmacist has sufficient reason to question the validity of the prescription; or to protect the health and welfare of the patient.

Recodified from N.J.A.C. 13:39–6.1 and amended by R.2005 d.25, effective January 18, 2005.
See: 36 N.J.R. 3345(a), 37 N.J.R. 295(a).
Undesignated (a) and deleted (b). Former N.J.A.C. 13:39–7.13, Outdated drugs or drugs marked "sample", recodified to N.J.A.C. 13:39–7.18.

13:39–7.14 Advertising and sale of prescription drugs

(a) "Advertisement" means any attempt directly or indirectly by publication, dissemination, or circulation in print or electronic media which directly or indirectly induces or attempts to induce any person or entity to purchase or enter into an agreement to purchase services or goods from a Board licensee.

(b) Price quotations for prescription drugs appearing in any advertisement shall stipulate the strength and quantity required to be purchased for the offered cost. Price quotations shall include the usual and customary prescription cost. All services including, but not limited to, delivery charges rendered by the pharmacy which will add additional costs to the price quoted, must be set forth in the advertisement.

(c) Any reference in any form of advertisement to the quality of a drug or its beneficial use is prohibited.

(d) Price quotations for drugs appearing in any advertisement shall stipulate the effective period of price quotation.

(e) Upon request by any consumer, the pharmacist shall give usual and customary price information for a non-third party paying customer over the telephone and shall stipulate the effective period of the price quotation.

(f) All advertisements shall be predominantly informational and shall not be misleading, confusing or false. Any advertisement demeaning the quality of professional services rendered by another licensee or permittee shall be prohibited.

Recodified from N.J.A.C. 13:39–6.8 and amended by R.2005 d.25, effective January 18, 2005.
See: 36 N.J.R. 3345(a), 37 N.J.R. 295(a).
Rewrote (e); in (f), deleted the second sentence. Former N.J.A.C. 13:39–7.14, Patient profile record system, recodified to N.J.A.C. 13:39–7.19.

Case Notes

Prohibition against certain premiums or rebates was unconstitutional. Matter of CVS Pharmacy, Wayne, 224 N.J.Super. 631, 541 A.2d 242 (A.D.1988) reversed 116 N.J. 490, 561 A.2d 1160, certiorari denied 110 S.Ct. 841, 493 U.S. 1045, 107 L.Ed.2d 836.

13:39–7.15 Restriction on sale of Schedule V over-the-counter controlled substances

(a) It shall be considered unprofessional conduct for a pharmacist to dispense a Schedule V over-the-counter controlled substance when:

1. The pharmacist, in his or her professional judgment, knows or reasonably should know that the requested substance will be used for unauthorized or illicit consumption or distribution; or

2. The pharmacist, in his or her professional judgment, knows or reasonably should know that the person requesting the substance previously used it for unauthorized or illicit consumption or distribution.

(b) The standard of professional judgment and care that attends the sale of a Schedule V over-the-counter controlled substance shall conform to the following:

1. All pharmacists shall comply with N.J.A.C. 8:65–7.19, which requires that the sale of specified controlled substances be limited in quantity during any 48–hour period, that the purchaser be at least 18 years of age, and that the pharmacist obtain suitable identification (including proof of age where appropriate) from every purchaser not known to the pharmacist.

2. In all instances, any doubts regarding the propriety of a sale of a Schedule V substance shall be resolved against making the sale.

3. The pharmacist shall enter every sale of a Schedule V substance in the Over–the–Counter Schedule V Record Book pursuant to N.J.A.C. 8:65–7.19. The information to be recorded shall include the purchaser's first and last name, street address, city and state, the name and quantity of the Schedule V substance sold, the date of each sale, and the name or initials of the pharmacist making the sale.

4. Upon an individual's second request for a Schedule V substance within a short period of time (two to four days), the pharmacist shall determine, through direct communication with the purchaser, whether the substance is being used correctly. In that regard, the pharmacist shall ascertain how many people are using the substance and whether the condition which the substance is being used to treat is improving.

5. Upon an individual's third request for a Schedule V substance within a short period of time relative to the number of persons using it (two to four days subsequent to the second purchase), the pharmacist shall advise the purchaser of the substance's abuse potential and shall caution the purchaser to consult a physician if the condition for which the substance is being used does not improve.