

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Pharmacy

RULE CITATION: 21 NCAC 46 .1801

DEADLINE FOR RECEIPT: Thursday, July 9, 2015

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, please replace "has" with "shall have."

I note that Paragraph (a) is when an individual has the right to refuse to fill a prescription, but Paragraph (b) is when the individual is required to refuse. So that I understand, what is the practical difference between the scenarios in Paragraphs (a) and (b)?

In Paragraph (b) on line 8, replace "should" with "may"

On lines 8-9, are these the only circumstances that a pharmacist or dispenser is not allowed to fill an order pursuant to this Rule, or is this intended to be a list of examples?

On lines 8 - 9, you refer to the circumstances wherein an individual is required to refuse to fill the prescription, including questions of the order's accuracy, validity, or authenticity. It appears that the term "validity" is defined in Paragraph (c), but the other terms are not. Does your regulated public know what those terms mean?

In Paragraph (c), how will a pharmacist know if a relationship with the prescriber is valid and their professional practice legitimate?

On line 21, please insert a comma after "device"

Also on line 21, define "lawful"

On line 22, delete or define "valid."

On lines 22 and 23, does your regulated public know what you mean by "legitimate"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 24, 2015

1 21 NCAC 46 .1801 is amended as published in 29:20 NCR 2343 as follows:

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3 **21 NCAC 46 .1801 RIGHT TO REFUSE A PRESCRIPTION**

4 (a) A pharmacist or device and medical equipment dispenser ~~may~~ has a right to refuse to fill or refill a prescription
5 order ~~order, if, if doing so would be contrary to his or her in his professional judgment. judgment, it would be~~
6 ~~harmful to the recipient, is not in the recipient's best interest or if there is a question as to its validity.~~

7 (b) A pharmacist or device and medical equipment dispenser shall not fill or refill a prescription order if, in the
8 exercise of professional judgment, there is or reasonably should be a question regarding the order's accuracy,
9 validity, authenticity, or safety for the patient. ~~the order was issued without a physical examination of the patient~~
10 ~~and in the absence of a prior prescriber-patient relationship, unless:~~

11 (1) ~~the prescription order was issued for the patient by a psychiatrist;~~

12 (2) ~~the prescription order was issued for the patient after discussion of the patient status with a~~
13 ~~treating psychologist, therapist, or physician;~~

14 (3) ~~the prescription order was ordered by a physician for flu vaccinations for groups of patients or~~
15 ~~members of the public;~~

16 (4) ~~the prescription order was for prophylactic purposes, such as the ordering of antibiotics by a~~
17 ~~pediatrician for members of a child's family when the child has a positive strep test;~~

18 (5) ~~the prescription order was an emergency order for medication related to pregnancy prevention; or~~

19 (6) ~~the prescription was an order for medications to be taken by groups traveling to foreign~~
20 ~~countries.~~

21 (c) A prescription order is valid only if it is a lawful order for a drug, device or medical equipment issued by a
22 health care provider for a legitimate medical purpose, in the context of a valid patient-prescriber relationship, and in
23 the course of legitimate professional practice as recognized by the occupational licensing board governing the health
24 care provider.

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26 *History Note: Authority G.S. 90-85.6; 90-85.32;*

27 *Eff. April 1, 1983;*

28 *Amended Eff. August 1, 2015; February 1, 2007; March 1, 2004; April 1, 2003; September 1,*
29 *1995.*

JUNE 17, 2015