



## DEA Recommendations Regarding Delegation of Controlled Substance Prescribing Functions

Richard C. Kraus

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### **PRACTICE AREAS**

Health Care

The Drug Enforcement Administration recently issued a policy statement intended to provide guidance regarding the proper role of a duly authorized agent of a DEA-registered individual practitioner in connection with the communication of controlled substance prescriptions to a pharmacy.

Under federal law, only practitioners with a valid DEA registration are authorized to prescribe controlled substances. A practitioner must determine that a prescription for a controlled substance is for a legitimate medical purpose. That core responsibility cannot be delegated. However, an individual practitioner may authorize an agent to perform limited roles in communicating controlled substance prescriptions to pharmacies.

The basic principle reinforced by the DEA's statement of policy is that delegation must "preserve the requirement that medical determinations to prescribe controlled substances be made by a practitioner only, not by an agent." The statement recommends the adoption of written policies and procedures that will allow a practitioner to demonstrate that he or she made the required medical determinations.

The statement also recommends written policies and procedures designed to ensure compliance with the requirements applicable to non-practitioners involved in communicating prescription information to pharmacies. The proper role of an agent depends upon the schedule of the controlled substance prescribed, the circumstances of the ultimate user, and the method of communication. (The specific requirements are covered in the DEA's statement. A copy can be provided on request.)

The policy statement outlines the DEA's suggested mechanism for establishing a valid agency relationship and explaining the appropriate roles an authorized agent may play. The statement recommends:



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- The designation of persons authorized to act on behalf of the practitioner and the scope of any such authorization should be documented in writing. The practitioner and agent should both sign the document.
  - The practitioner should retain the original signed document for at least two years after revocation or termination of the agent's authorization.
  - A copy of the authorization should be provided to pharmacies that regularly receive communications from the agent.
  - Practitioners should adopt and maintain operational policies and procedures governing delegation of authority to agents relating to controlled substance prescriptions.
  - Practitioners should be prepared to demonstrate that the practitioner makes all medical determinations required for prescribing controlled substances.
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