**"DO NOT FILL UNTIL"……Not a Legal Solution!**

Many APRNs seek to find solutions to prescribing controlled medications for their patients who have transportation issues, co-pays, and other convenience issues. However, providing multiple prescriptions for patients with instructions that state**, "Do not fill until _____"** is outside the scope of practice of the APRN's prescriptive authority and the designated prescription limits, and is a violation of the law in instances where the total supply of the medication at issue of the prescription exceeds the applicable prescribing limit.

**It is unlawful for an APRN to write multiple controlled substance prescriptions at one time, for a single drug and for a single patient,** if in doing so has the effect of circumventing the applicable prescribing limit.

**SUMMARY OF PRESCRIBING LIMITS:**

**SCHEDULE II**

Pursuant to KRS 314.011(8)(a), An APRN with a DEA number and a CAPA-CS may prescribe a seventy-two (72) hour supply of a Schedule II controlled substance, with no refills.

An exception to this limit allows an APRN with a DEA number, a CAPA-CS, <u>and</u> certification as a psychiatric-mental health nurse practitioner to prescribe a thirty (30) day supply of a Schedule II psychostimulant, with no refills. Though hydrocodone was reclassified to a Schedule II drug effective October 6, 2014, drugs containing hydrocodone, when prescribed by Kentucky APRNs are subject to the prescription limits applicable to Schedule III drugs. See, KRS 218A.020(3).

**SCHEDULE III**

Pursuant to KRS 314.011(8)(b), an APRN with a DEA number and a CAPA-CS may prescribe a thirty (30) day supply of a Schedule III controlled substance, with no refills.

**LIMITED SCHEDULE IV**

Pursuant to 201 KAR 20:059, an APRN with a DEA number and a CAPA-CS may prescribe a thirty (30) day supply of the following Schedule IV controlled substance, with no refills: diazepam (Valium); clonazepam (Klonopin); lorazepam (Ativan), alprazolam (Xanax), and carisoprodol (Soma).

**SCHEDULE IV & SCHEDULE V**

Except where limited by 201 KAR 20:059, an APRN with a DEA number and a CAPA-CS may provide an original prescription and

refills not to exceed a six (6) month supply of Schedule IV and Schedule V controlled substances.

**SCENARIO:**

An APRN with a CAPA-CS and a DEA number, upon seeing and assessing a patient, simultaneously writes three (3) separate Schedule II controlled substance prescriptions for oxycodone, each for a three (3) day period. By doing this, the APRN has effectively written a nine (9) day supply of a Schedule II controlled substance, without intermediate assessments or office visits during the nine (9) day period. The applicable APRN prescribing limit for oxycodone is a three (3) day supply with no refills.

Many APRNs think that an applicable federal law (21 CFR 1306.12) permits an APRN with a CAPA-CS and a DEA number to simultaneously write multiple controlled substance prescriptions, for a single drug and for a single patient, to be filled in a serial manner that would exceed the prescription limits described above.

21 CFR 1306.12 states:

*(a) The refilling of a prescription for a controlled substance listed in Schedule II is prohibited.*

*(b)(1) An individual practitioner may issue multiple prescriptions authorizing the patient to receive a total of up to a 90–day supply of a Schedule II controlled substance provided the following conditions are met:*

*(i) Each separate prescription is issued for a legitimate medical purpose by an individual practitioner acting in the usual course of professional practice;*

*(ii) The individual practitioner provides written instructions on each prescription (other than the first prescription, if the prescribing practitioner intends for that prescription to be filled immediately) indicating the earliest date on which a pharmacy may fill each prescription;*

*(iii) The individual practitioner concludes that providing the patient with multiple prescriptions in this manner does not create an undue risk of diversion or abuse;*

*(iv) The issuance of multiple prescriptions as described in this section is permissible under the applicable state laws; and*

*(v) The individual practitioner complies fully with all other applicable requirements under the Act and these regulations as well as any additional requirements under state law.*

*(2) Nothing in this paragraph (b) shall be construed as mandating or encouraging individual practitioners to issue multiple prescriptions or to see their patients only once every 90 days when prescribing Schedule II controlled substances. Rather, individual practitioners must determine on their own, based on sound medical judgment, and in accordance with established medical standards, whether it is appropriate to issue multiple prescriptions and how often to see their patients when doing so.*

However, the cited federal regulation is a law of general application to all persons who hold DEA licenses. Conversely, KRS 314.011(8) and 201 KAR 20:059 are much narrower in scope, with specific application only to Kentucky APRNs who hold a DEA license and a CAPA-CS. Because the Kentucky Board of Nursing was formed and operates by actions of the General Assembly as contained in KRS Chapter 314, and the administrative regulations promulgated by the designated legislative committees, the more restrictive prescription limits set forth at KRS 314.011(8) and 201 KAR 20:059 apply to Kentucky APRNs in matters before the Kentucky Board of Nursing.

The **SCENARIO** provided disregards the applicable prescribing limit and therefore violates Kentucky nursing laws.

Unless and until a court or legislative body dictates otherwise, when KBN learns that an APRN has engaged in the practice of simultaneously writing multiple controlled substance prescriptions, for a single drug and for a single patient, in a manner that contravenes the applicable prescribing limit, administrative complaints regarding this practice will be filed and appropriate remedial action will be sought.