

PRESCRIPTION AND OVER-THE-COUNTER MEDICATION

PRESCRIPTION MEDICATION
OVER-THE-COUNTER MEDICATION
LANGUAGE ASSISTANCE

PRESCRIPTION AND OVER-THE-COUNTER MEDICATION

PRESCRIPTION MEDICATION

New York City Administrative Code: Title 20

- § 20-712. Definitions.
- § 20-713. Display of Prescription Drug Prices.
- § 20-713.1. Display of Information Relating to Emergency Contraception.
- § 20-714. Regulations.
- § 20-715. Penalties.

Rules of the City Of New York: Title 6

- § 5-121. Posting of Prescription Drug Prices.
- § 5-122. Display of Information Relating to Emergency Contraception.

New York Education Law

- § 6826. Drug Retail Price Lists.

OVER-THE-COUNTER MEDICATION

New York City Administrative Code: Title 20

- § 20-821. Definitions.
- § 20-822. Prohibited Conduct and Violations.
- § 20-823. Enforcement.

LANGUAGE ASSISTANCE

New York City Administrative Code: Title 20

- § 20-620. Definitions.
- § 20-621. Provision of Interpretation Services Required.
- § 20-622. Provision of Translation Services Required.
- § 20-623. Notification Relating to Language Assistance Services.
- § 20-624. Penalties.
- § 20-625. Hearing Authority.

Rules of the City Of New York: Title 6

- § 4-11. Content and Form of Language Assistance Sign.

PRESCRIPTION MEDICATION

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of March 2011.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE
TITLE 20: CONSUMER AFFAIRS
CHAPTER 5: UNFAIR TRADE PRACTICES
SUBCHAPTER 3: POSTING OF PRESCRIPTION DRUG PRICES AND NOTICES

§ 20-712. Definitions.

- (a) “Current selling price” means the price to be paid by the purchaser to the pharmacy for a listed drug.
- (b) “Prescription drugs” means any drug, which may be dispensed only with a physician's prescription.
- (c) “Pharmacy” means any retail outlet selling prescription drugs within the city.
- (d) “Emergency contraception” means one or more prescription drugs, used separately or in combination, to be administered to or self-administered by the patient in a dosage and manner for preventing pregnancy when used after intercourse, found safe and effective for that use by the United States food and drug administration, and dispensed for that purpose in accordance with professional standards of practice.

§ 20-713. Display of Prescription Drug Prices.

Every pharmacy must post, at each counter over which prescription drugs are sold, a list conspicuously displaying the current selling price of the drugs designated on a form prescribed for that purpose by the department.

§ 20-713.1. Display of Information Relating to Emergency Contraception.

Any pharmacy that does not sell emergency contraception must conspicuously post, at or adjacent to each counter over which prescription drugs are sold, indicating in large type that emergency contraception is not sold at such pharmacy.

§ 20-714. Regulations.

- (a) The commissioner shall promulgate regulations designating those prescription drugs, which, because of the frequency with which they are prescribed, shall be posted pursuant to [Section 20-713](#). The commissioner may exempt from such regulation such drugs to the extent that, and under such conditions as are consistent with the policy of this subchapter whenever the commissioner shall find that, because of the nature of such prescription drugs, compliance with [Section 20-713](#) is unreasonably burdensome or unnecessary for adequate protection of consumers.
- (b) The commissioner shall promulgate such other regulations as shall be necessary to effectuate the purposes of this subchapter, including, but not limited to, requirements as to the manner of display of prescription drug prices.

§ 20-715. Penalties.

Any person who shall violate the provisions of [Section 20-713](#), [Section 20-713.1](#), or regulations promulgated pursuant to this subchapter shall pay a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first offense and for each succeeding offense a penalty of not less

than five hundred dollars nor more than seven hundred fifty dollars for each such violation and shall, upon conviction thereof, be punished by a fine of not less than two hundred fifty dollars nor more than five hundred dollars for the first offense and for each succeeding offense a fine of not less than five hundred dollars nor more than seven hundred fifty dollars for each such violation. For the purposes of this section, if on any single day the current selling price list is not displayed in accordance with [Section 20.713](#) or regulations promulgated pursuant to this subchapter, or the required signage is not displayed in accordance with [Section 20.713.1](#) or regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of 2012.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 5: UNFAIR TRADE PRACTICES
SUBCHAPTER C: POSTING OF PRESCRIPTION DRUG PRICES

§ 5-121. Posting of Prescription Drug Prices.

- (a) *Sign to be displayed.* In accordance with the provisions of [§ 20-713 of the Administrative Code of the City of New York](#), every pharmacy is required to display the most recent prescription price list prepared and provided by the State Board of Pharmacy, New York State Education Department, as required by [§ 6826 of the New York State Education Law](#).
- (b) *Adjustment of current selling prices.* Nothing in this rule shall prohibit a pharmacy from changing the current selling price of a drug provided the pharmacy shall simultaneously adjust the price on the posted sign.

§ 5-122. Display of Information Relating to Emergency Contraception.

- (a) As used in this section:
 - (1) “Not sell” shall mean not to have available for usual and customary dispensing at any time, except that this shall not include circumstances where the pharmacy customarily dispenses such drug or drugs that are temporarily not in stock and such pharmacy will be able to fill prescription within 12 hours after a customer requests that a prescription for such drug be filled.
 - (2) “Emergency contraception prescription drug” shall mean the named drugs, Plan B and Preven, and any other drug expressly approved by the U.S. Food and Drug Administration (FDA) for use as emergency contraception drug with a physician's prescription or when and as specifically authorized by law to be dispensed for emergency contraception without a prescription.
- (b) Any pharmacy that does not sell an emergency contraception prescription drug shall conspicuously post a sign adjacent to each counter where prescription drugs are sold on which is displayed either the name of each such drug that is not sold and identified as the “morning after pill,” or that states that “no morning after pills” are sold if all such drugs are not sold at such pharmacy.
- (c) Any pharmacy that does not have an emergency contraception prescription drug available for immediate dispensing, and stocks such drug or drugs, shall conspicuously post a sign adjacent to each counter where prescription drugs are sold on which is displayed either the name of such drug or drugs not immediately available and identified as the “morning after pill” stating that such drug or drugs are not currently in stock but will be available within 12 hours after a customer requests that a prescription for such drug be filled. A pharmacy that cannot fill such prescription within 12 hours from original request shall post the sign identified in subsection (b).
- (d) The signs required to be posted shall be not less than 8.5 by 14 inches, with letters sufficiently large to fill the entire space with appropriate borders and spacing between lines.

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of 2012.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

MCKINNEY'S CONSOLIDATED LAWS OF NEW YORK
EDUCATION LAW
CHAPTER 16: OF THE CONSOLIDATED LAWS
TITLE VIII: THE PROFESSIONS
ARTICLE 137: PHARMACY

§ 6826. Drug Retail Price Lists.

1. Every pharmacy shall compile a drug retail price list, which shall contain the names of the drugs on the list provided by the board, the pharmacy's corresponding retail prices for each drug. Every pharmacy shall update its drug retail list at least weekly and provide the time and date that the list was updated. Every pharmacy shall provide the drug retail price list to any person upon request.
2.
 - a. The list provided by the board shall be prepared at least annually by the board and distributed to each pharmacy in the state. The list shall be a compendium of the one hundred fifty most frequently prescribed drugs together with their usual dosages for which a prescription is required by the provisions of the "Federal Food, Drug, and Cosmetic Act" (21 U.S.C. 301, et seq.; 52 Stat. 1040, et seq.), as amended, or by the commissioner of health. The board shall make the compendium list available to each pharmacy free of charge, both in printed form and in an electronic form that can be used to produce the pharmacy's drug retail list. The board shall provide the compendium list to the department of health.
 - b. The drug retail price list shall contain an advisory statement by the department alerting consumers to the need to tell their health care practitioner and pharmacist about all the medications they may be taking and to ask them how to avoid harmful interactions between drugs, if any. A pharmacy may include on its drug retail price list a statement: (a) concerning discounts from its listed retail prices that may be available to consumers and (b) any limitations that the pharmacy may have as to what group or groups of customers it serves.
3. The pharmacy's corresponding retail price means the actual price to be paid by a retail purchaser to the pharmacy for any listed drug at the listed dosage. However, upon implementation of the prescription drug retail price list database by the department of health under section two hundred seventy-six-a of the public health law, the pharmacy's corresponding retail price shall mean the price sent to it by the department of health under that section.
4. Pharmacies shall have a sign notifying people of the availability of the drug retail price list and the availability of the department of health prescription drug retail price list database and the web address of that database, conspicuously posted at or adjacent to the place in the pharmacy where prescriptions are presented for compounding and dispensing, in the waiting area for customers, or in the area where prescribed drugs are delivered.
5. Nothing contained herein shall prevent a pharmacy from changing and charging the current retail price at any time, provided that the listed price is updated at least weekly to reflect the new retail price.
6. The commissioner shall make regulations necessary to implement this section, including how this section is applied to mail order and internet pharmacies.

OVER-THE-COUNTER MEDICATION

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are included as a handout in this packet. The New York City Law and Rules are current as of 2011.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

**NEW YORK CITY ADMINISTRATIVE CODE
TITLE 20: CONSUMER AFFAIRS
CHAPTER 5: UNFAIR TRADE PRACTICES
SUBCHAPTER 18: PROHIBITION ON THE SALE OF EXPIRED OVER-THE-COUNTER MEDICATION**

§ 20-821. Definitions.

For purposes of this subchapter, the following definitions shall apply:

1. "Over-the-Counter Medication" means a drug, as defined by Section 71.03(b) of the New York City Health Code, which does not require a prescription.
2. "Person" means any natural person, firm, partnership, joint venture, corporation, or association.

§ 20-822. Prohibited Conduct and Violations.

- a. It shall be unlawful to sell or offer for sale, any over-the-counter medication, later than the date, if any, marked upon the label as indicative of the date beyond which the contents cannot be expected to be safe and effective.
- b. Violations. A person violating section 20-822 of this subchapter shall be guilty of a violation punishable by a fine not to exceed two hundred and fifty dollars for the first violation and a fine not to exceed five hundred dollars for any subsequent violation. In addition to such penalties, any person who violates this section shall be liable for a civil penalty of not less than one hundred dollars nor more than two hundred and fifty dollars for the first violation and of not less than two hundred and fifty dollars nor more than five hundred dollars for each subsequent violation. For purposes of this subdivision, each group of identical over-the-counter medication subject to this subchapter marked with the same date shall constitute a single violation. However, where the expired over-the-counter medication is sold to a person, each sale shall constitute a separate violation under this section. Penalties shall be enforced in accordance with subdivision g of section twenty-two hundred and three of the charter of the city of New York.

§ 20-823. Enforcement.

The department, the police department, and other agencies designated by the commissioner are authorized to enforce the provisions of this subchapter.

LANGUAGE ASSISTANCE

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Regulation of Commodities and Services Law and Rules are included as a handout in this packet. The Law and Rules are current as of May 2012.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE
TITLE 20: CONSUMER AFFAIRS
CHAPTER 4: REGULATION OF COMMODITIES AND SERVICES
SUBCHAPTER 3: LANGUAGE ASSISTANCE SERVICES IN PHARMACIES

§ 20–620 **Definitions.** For the purposes of this subchapter, the following terms shall have the following meanings: a. "Chain pharmacy" shall mean any pharmacy that is part of a group of four or more establishments that (1) conduct business under the same business name or (2) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

b. "Competent oral interpretation" shall mean oral communication in which (1) a person acting as an interpreter comprehends a spoken message and re-expresses that message accurately in another language, utilizing all necessary pharmaceutical- and health-related terminology; (2) a bilingual pharmacy staff member communicates proficiently with an LEP individual in the LEP individual's primary language utilizing all necessary pharmaceutical- and health-related terminology; or (3) a person acting as an interpreter or a bilingual pharmacy staff member accurately translates a written document orally for an LEP individual utilizing all necessary pharmaceutical- and health-related terminology.

c. "Competent translation" shall mean written communication in which a person or device translates a written message and re-writes that message accurately in another language.

d. "Language assistance services" shall mean competent oral interpretation and/or competent translation provided to a limited English proficient individual in his or her primary language to ensure that such individual understands medication labels, warning labels and instructions for drug usage.

e. "Limited English proficient individual" or "LEP individual" shall mean an individual who identifies as being, or is evidently, unable to speak, read or write English at a level that permits such individual to understand health-related and pharmaceutical information communicated in English.

f. "Other written material" shall mean any written material other than a prescription label or warning label that the pharmacy considers vital to an LEP individual's safe and effective use of prescription medications.

g. "Pharmacy" shall mean any retail establishment that is located within the city of New York in which prescription drugs are sold.

h. "Pharmacy primary languages" shall mean the top seven languages spoken by LEP individuals in New York city, as determined biennially by the department of city planning based on data from the American Community Survey and made available to each chain pharmacy.

i. "Primary language" shall mean the language identified by an LEP individual as the language to be used in communicating with such individual.

§ 20–621 **Provision of interpretation services required.** a. Every chain pharmacy shall provide free, competent oral interpretation services to each LEP individual filling a prescription at such chain pharmacy in the LEP individual's primary language for the purposes of counseling such individual about his or her prescription medications or when soliciting information necessary to maintain a patient medication profile, unless the LEP individual is offered and refuses such services.

b. Every chain pharmacy shall provide free, competent oral interpretation of prescription medication labels, warning labels and other written material to each LEP individual filling a prescription at such chain pharmacy, unless the LEP individual is offered and refuses such services.

c. The services required by this section may be provided by a staff member of the pharmacy or a third-party paid or volunteer contractor. Such services must be provided on an immediate basis but need not be provided in-person or face-to-face in order to meet the requirements of this section.

§ 20–622 **Provision of translation services required.** Every chain pharmacy shall provide free, competent translation of prescription medication labels, warning labels and other written material to each LEP individual filling a prescription at such chain pharmacy if that individual's primary language is one of the pharmacy primary languages, in addition to providing such labels and materials in English. Nothing in this section shall prohibit a chain pharmacy from providing dual- or multi-language medication labels, warning labels or other written materials to LEP individuals who speak one of the pharmacy primary languages if one of the languages included on such labels or sheets is the LEP individual's primary language.

§ 20–623 **Notification relating to language assistance services.** a. Every chain pharmacy shall conspicuously post, at or adjacent to each counter over which prescription drugs are sold, a notification of the right to free language assistance services for limited English proficient individuals as provided for in sections 20-621 and 20-622 of this subchapter. Such notifications shall be provided in all of the pharmacy's primary languages. The size, style and placement of such notice shall be determined in accordance with rules promulgated by the department.

§ 20–624 **Penalties.** a. Any chain pharmacy that violates the provisions of sections 20-621 or 20-622 of this subchapter or any rules promulgated pursuant to such sections shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than two thousand five hundred dollars for the first violation and for each succeeding violation a civil penalty of not less than five hundred dollars nor more than five thousand dollars.

b. Any chain pharmacy that violates the provisions of section 20-623 of this subchapter or any rules promulgated pursuant to such section shall be liable for a civil penalty of not less than two hundred dollars nor more than five hundred dollars for the first violation and for each succeeding violation a civil penalty of not less than three hundred dollars nor more than one thousand dollars.

§ 20–625 **Hearing authority.** a. Notwithstanding any other provision of law, the department shall be authorized upon due notice and hearing, to impose civil penalties for the violation of any provision of this subchapter and any rules promulgated thereunder. The department shall have the power to render decisions and orders and to impose civil penalties not to exceed the amounts specified in section 20-624 of this subchapter for each such violation. All proceedings authorized pursuant to this section shall be conducted in accordance with rules promulgated by the commissioner. The penalties provided for in section 20-624 of this subchapter shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

b. All such proceedings shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 4: MARKET REGULATIONS
SUBCHAPTER B: LANGUAGE ASSISTANCE NOTICES AT PHARMACIES

§4-11 Content and Form of Language Assistance Sign.**

(a) The sign required to be posted at chain pharmacies pursuant to §20-623 of the administrative code of the City of New York to inform limited English-proficient individuals of their rights to language assistance in the seven languages identified biennially by the Department of City Planning shall include the following statement in English and in each of the languages listed: "Point to your language. Language assistance will be provided at no cost to you."

(b) The statement in each of the required languages shall be in 20 point bold faced, Arial type in a color that sharply contrasts with the background color of the sign. Each such statement shall be enclosed in a box, and there shall be at least a $\frac{1}{4}$ inch clear space between adjacent boxes.

(c) The statements in all of the required languages shall be printed on one sign that shall be conspicuously displayed on or at each counter where prescription drug orders are dropped off, where they are picked up, and near every cash register where prescription drugs are paid for. Such signs shall be positioned so that a consumer can easily point to the statement identifying the language in which such person is requesting assistance.