

## On the draft bill to accelerate the digitisation of the health care system (Digital-Gesetz – DigiG)

August 2023

The European Association of E-Pharmacies (EAEP), which represents the political interests of European online pharmacies, **welcomes** the overarching intention of the present draft bill to **accelerate and consistently develop the digital transformation of healthcare and care**.

The EAEP supports in particular measures that contribute to a higher commitment of the use of applications, better information and **acceptance of patients and** service providers and **increased user-friendliness of digital applications** and processes in the German health care system.

Nevertheless, from the EAEP's point of view, the draft bill shows a comparatively large need for concretization and supplementation – also and in particular with regard to the restoration of the principle of free choice of pharmacy according to § 31 para. 1 sentence 5 SGB V through the imperative implementation of a low-threshold, fully digital e-prescription redemption pathway.

The EAEP assesses selected measures of the DigiG referendum draft submitted on 13 July 2013 as follows:



### 1. Lack of basis for the implementation of a low-threshold, fully digital redemption option for electronic prescriptions

The analogue and (partially) digital e-prescription redemption channels envisaged so far either erect too high hurdles to achieve broad user acceptance or exclude online pharmacies a priori from receiving electronic prescriptions.

Only very few insured persons are able to redeem their e-prescription via the gematik e-prescription app, as only a tiny proportion of the total population (around 1%) has the required PIN for the NFC-enabled eGK. The redemption method via the paper printout of the token, on the other hand, is not accepted by the medical profession, as evidenced by the KVWL's withdrawal from the e-prescription rollout in November 2022.

The option via the eGK ("eGK plug-in solution"), which is now envisaged as the central method of encashment and which will be put into operation nationwide and in a controlled manner as of 01.07.2023, only enables the insured person to redeem the e-prescription in the local pharmacy and excludes European online pharmacies from the delivery of correspondingly transmitted e-prescriptions. This transmission channel, which according to forecasts by the Gesellschaft für Telematik will be used to redeem 40 % of all electronic prescriptions in the medium term and 70 % in the long term, therefore already restricts the principle of free choice of pharmacy according to § 31 Para. 1 Sentence 5 SGB V through the technical design defined in the specifications, as long as no alternative, equally low-threshold, fully digital redemption channel is implemented that is also suitable for the transmission of electronic prescriptions to online pharmacies.

For these reasons, the EAEP emphatically demands the prompt implementation of a completely digital redemption path by means of an electronic health card without additionally required PIN entry, which does not exclude any pharmacies or pharmacy forms from receiving e-prescriptions or e-prescription access data. A comprehensive restoration of the principle of free choice of pharmacy by the legislator is a top priority for our members.

In the short term, the Federal Government should commission the Gesellschaft für Telematik to examine and implement the necessary steps for the implementation of this fully digital redemption path. In the medium term, considering the applicable data protection requirements as well as the requirements for availability, integrity, authenticity and confidentiality of an e-prescription app, it should be made possible for pharmacies to retrieve open, not yet redeemed electronic prescriptions via KVNR directly and without having the electronic access data at the specialist service (Fachdienst) and to supply them at the request of the insured.

## 2. Mandatory e-prescription introduction by 1 January 2024

The EAEP expressly welcomes the legal anchoring of a new mandatory start date for the nationwide introduction of e-prescription in Germany. Nevertheless, the developments in the past 18 months show that a legal obligation alone is not sufficient – the present draft law regrettably leaves open at this point in time whether and which measures can be taken should individual service providers disregard the obligation to issue e-prescriptions for (technical) reasons that are not their fault.

## 3. Enabling e-prescription (token) transmission outside the telematics infrastructure

The Federal Government's plans to allow the transmission of the e-prescription/e-prescription token outside the telematics infrastructure as long as the information technology system provided is state of the art in accordance with the guidelines of the Federal Office for Information Security and complies with the "Substantial" security level, are supported by EAEP. Corresponding applications must be designed in a non-discriminatory manner, as provided for in the law.

## 4. Introduction of the benefit entitlement to assisted telemedicine

The EAEP supports the introduction of assisted telemedicine and the underlying intention of the Federal Government to promote the use of telemedical care services and to strengthen equal opportunities in the field of patient care and low-threshold access to (telemedical) care services. In order to exclude a priori discrimination against online pharmacies within the framework of the planned agreement negotiations between the GKV-SV and the DAV, it should be legally stipulated that the consultation and instruction services may also be provided by pharmacies at a distance, for example by telephone or telepharmacy.

## 5. Automatic transmission and storage of dispensing information in the electronic patient record (ePA)

A (preferably) complete medication history of the patient is an essential prerequisite for comprehensive and high-quality counselling of patients by pharmaceutical professionals. Therefore, the EAEP supports the planned automated storage of dispensing information in the ePA. In this respect, the EAEP advocates a procedural low-threshold and fully automated implementation, for example by means of an interface between the ePA specialist service and the e-prescription specialist service, so that pharmacies do not have to incur any additional work when dispensing medicines.

However, in order to improve the reliability of the dispensing information as a basis for pharmaceutical counselling, it is necessary that pharmacies are allowed to independently update the dispensing information written by them on the e-prescription service in the future.

## 6. Indefinite abolition of the 30% volume limit for medical services provided as video consultation hours

Telemedicine undoubtedly has the potential to sustainably improve medical care in Germany. Particularly in rural areas, it can make a decisive contribution to compensating for bottlenecks in care and simplifying access to medical care by general practitioners and specialists. Against this background, the EAEP welcomes the indefinite abolition of the 30% quantity limit in the uniform assessment scale for medical services provided as video consultation hours. At the same time, the EAEP sees the need to establish a regulatory equality of telemedical service provision with physical doctor-patient contact.

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