

Tuesday, August 23, 2022 2: Press releases E-prescription procedure: protect machine-readable codes! September 6, 2022: Questions and answers on sending DataMatrix codes in the e-prescription process On August 22, 2022, the Schleswig-Holstein Association of Statutory Health Insurance Physicians (KVSH) reported in a press release that the Independent State Center for Data Protection Schleswig-Holstein (ULD) have banned the "e-prescription" in Schleswig-Holstein. Is that correct? Does data protection even prevent good solutions in the medical field? No! The "e-prescription" procedure has been specified at federal level for all of Germany. There are several ways in which the contract doctor's electronic prescriptions for pharmacy-only medicines can reach patients, in particular: The e-prescription app is available for users with a newer smartphone and a compatible health card.

Alternatively, a printout can be made. This differs from the previous procedure (the pink paper prescription) by the machine-readable data matrix code (similar to a QR code), which can be scanned by the pharmacy. The ULD did not object to this "e-prescription" procedure provided for by the federal legislature for data protection reasons, nor was a ban on the e-prescription pronounced. Since not all users have a newer smartphone and a compatible health card, nationwide use is currently not possible. As an alternative to the legally differentiated "e-prescription" procedure, some service providers are now considering how another procedure could be implemented in order to process electronic prescriptions for pharmacy-only medicines from panel doctors. In July, the Association of Statutory Health Insurance Physicians in Schleswig-Holstein (KVSH) asked the ULD whether it was permissible under data protection law for medical practices to use email or SMS instead of the nationwide e-prescription app , in order to hand out electronic prescriptions for pharmacy-only medicines to patients. It was assumed that there was no risk for the persons concerned if the DataMatrix code was sent unencrypted because the code did not contain any sensitive data. However, this assumption was not correct, as an examination of the ULD in coordination with other data protection supervisory authorities revealed: Anyone in possession of this code can use it to access the centrally stored complete medical prescription with the name of the insured person, their date of birth, contact details of the doctor, View the date of issue of the prescription and the prescription-only medicines. This is part of the functionality of apps in the pharmacy environment, for example, which can be used to order medicines online. Protection against misuse – e.g. B. a check of whether someone is authorized to redeem a doctor's prescription or even to access its content - is not intended for these apps. Medical practices must ensure that patients receive their prescriptions in a safe manner, as has been the case up to now. This also applies to the transmission of the DataMatrix code. Doctors' offices must not use insecure methods that present

the risk of such data being intercepted or copied. The General Data Protection Regulation requires a high level of protection, especially for sensitive health data. In advising the KVSH, the ULD drew attention to these points and pointed out several possible solutions: Instead of the e-prescription app or the printout, for example, the use of the "Communication in Medicine" (KIM) system or digital dispatch, e.g. E.g. by e-mail with additional end-to-end encryption. The State Commissioner for Data Protection, Marit Hansen, welcomes the fact that she was involved in the advisory process before the e-prescription was rolled out. However, your statement is clear: "Anyone who relies on an insecure alternative creates a risk for the persons concerned and would even take away the incentive to use the systems developed for this purpose with appropriate protection."

Questions and answers: Does the ULD have that "E-Prescription" procedure checked? Has it failed? No, the "e-prescription" procedure according to the specification at federal level and also the e-prescription app have not been checked by the ULD. Has the ULD banned the "e-prescription" procedure in Schleswig-Holstein? No. Does the "e-prescription" procedure change anything in the doctor's office's obligations with regard to safe delivery? No, the medical practices must ensure that when medical prescriptions are handed out or transmitted, unauthorized persons are prevented from gaining knowledge of them. Sending it by postcard would not be sufficient, nor would e-mail without additional security (keyword: end-to-end encryption). Is it one of the tasks of the ULD to point out risks in a consultation? Of course. This is about patient protection. Is the ULD's assessment of the legal situation a surprise? No, the ULD applies in particular Art. 32 GDPR and also includes the decision of the conference of independent data protection supervisory authorities of the federal and state governments of November 24, 2021 on the question of the circumstances under which technical and organizational measures can be waived in exceptional cases. Are there legally permissible solutions for handing over or transferring also for the digital area? Yes, the ULD has pointed out several options that can meet the security requirements: via the e-prescription app, via the nationwide system "Communication in Medicine" (KIM) or, if e-mail is to be used, with additional encryption . Documents: Press release from the Schleswig-Holstein Association of Statutory Health Insurance Physicians (KVSH) dated August 22, 2022 [Ext.] Letter from the ULD to the KVSH dated August 19, 2022 with the result of the advice on sending the "e-prescription" procedure Resolution of the conference of independent Federal and state data protection supervisory authorities on the possibility of not applying technical and organizational measures in accordance with Art. 32 GDPR at the express request of data subjects of November 24, 2021 [External] If you have any questions, please contact: State Commissioner for Data Protection

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