

February 27, 2023

## **DEA Announces Proposed Rules for Permanent Telemedicine Flexibilities**

On February 24, the Drug Enforcement Administration (DEA) announced its proposed permanent rules for the prescribing of controlled medications via telemedicine. The proposed rules, which were developed with the U.S. Department of Health and Human Services, propose to extend many of the flexibilities adopted during the public health emergency. Below is a summary of the key provisions affecting medical practitioners who conduct telemedicine consultations that result in a prescription for a controlled substance. The full text of the proposals may be found [here](#) and [here](#).

### **COVID-19 PHE Telemedicine Consultations and Prescriptions**

The proposed rules maintain current telehealth flexibilities in place during the COVID-19 public health emergency for an additional 180 days from the end of the emergency for patients with whom you have an existing telemedicine relationship formed during the COVID-19 PHE and have not evaluated in person.

Prescribing to these patients during this 180-day period will require additional recordkeeping obligations. Prescriptions after the 180-day period will not be allowed until practitioners have conducted an in-person medical evaluation of these patients.

### **Schedule II or Narcotic Controlled Medications (except for Buprenorphine for the treatment of an opioid use disorder)**

Under the proposed rules, practitioners may not prescribe a Schedule II or narcotic controlled medicine (except for buprenorphine) for patients with whom you did not first form a telemedicine relationship during the COVID-19 public health emergency and for patients with whom you have not evaluated in person or were not referred to you by a medical practitioner that evaluated the patient in person.

### **Schedule III-V Controlled Substances and Buprenorphine**

The proposed rules would allow medical practitioners to prescribe a 30-day supply of Schedule III-V non-narcotic controlled medications or a 30-day supply of buprenorphine for the treatment of opioid use disorder without an in-person evaluation or referral from a medical practitioner that has conducted an in-person evaluation, as long as the prescription is otherwise consistent with any applicable Federal and State laws.

To issue more than a 30-day supply for these medications, you must conduct an in-person medical evaluation of the patient. This can include the patient's in-person visit with another practitioner while on an interactive video link with you as prescribing practitioner. Prescribing these medications in this manner will require additional recordkeeping obligations.

### **The proposed rules do not affect:**

- Telemedicine consultations that do not involve the prescribing of controlled medications.
- Telemedicine consultations by a medical practitioner that has previously conducted an in-person medical examination of a patient.
- Telemedicine consultations and prescriptions by a medical practitioner to whom a patient has been referred, as long as the referring medical practitioner has previously conducted an in-person medical examination of the patient.

There is a 30-day comment period for the proposed rules. AACAP will be providing comments.

Additional resources for practitioners can be found here:

- [Proposed Rules Summary](#) (dea.gov)
- [Proposed Rules Highlights for Medical Practitioners](#) (dea.gov)