



Telemedicine Guidance Updated 3/18/20

By the combination of these acts and allowances Ohio physicians should be free to practice telemedicine and provide continuing care to Ohioans throughout the COVID-19 pandemic.

OHIO

Effective March 9, 2020, providers can use telemedicine in place of in-person visits. Throughout the declared Covid-19 emergency, the SMBO will not enforce in-person visit requirements normally required in SMBO rules. Suspension of these enforcement requirements includes, but is not limited to:

- Prescribing controlled substances
- Prescribing for subacute and chronic pain
- Prescribing to patients not seen by the provider
- Pain management
- Medical marijuana recommendations and renewals
- Office-based treatment for opioid addiction

Providers must document their use of telemedicine and meet minimal standards of care. The Medical Board will provide advance notice before resuming enforcement of the above regulation when the state emergency orders are lifted.

DEA

On January 31, 2020, the Secretary of the Department of Health and Human Services issued a public health emergency ([HHS Public Health Emergency Declaration](#)). Telemedicine can now be used under the conditions outlined in Title 21, United States Code (U.S.C.), [Section 802\(54\)\(D\)](#).

While a prescription for a controlled substance issued by means of the Internet (including telemedicine) must generally be predicated on an in-person medical evaluation ([21 U.S.C. 829\(e\)](#)), the Controlled Substances Act contains certain exceptions to this requirement. One such exception occurs when the Secretary of Health and Human Services has declared a public health emergency under 42 U.S.C. 247d (section 319 of the Public Health Service Act), as set forth in 21 U.S.C. 802(54)(D). [Secretary Azar declared such a public health emergency with regard to COVID-19.](#)

For as long as the Secretary's designation of a public health emergency remains in effect, DEA-registered practitioners may issue prescriptions for controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice
- The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system.

- The practitioner is acting in accordance with applicable Federal and State law.

Provided the practitioner satisfies the above requirements, the practitioner may issue the prescription using any of the methods of prescribing currently available and in the manner set forth in the DEA regulations. Thus, the practitioner may issue a prescription either electronically (for schedules II-V) or by calling in an emergency schedule II prescription to the pharmacy, or by calling in a schedule III-V prescription to the pharmacy. Important note: If the prescribing practitioner has previously conducted an in-person medical evaluation of the patient, the practitioner may issue a prescription for a controlled substance after having communicated with the patient via telemedicine, or any other means, regardless of whether a public health emergency has been declared by the Secretary of Health and Human Services, so long as the prescription is issued for a legitimate medical purpose and the practitioner is acting in the usual course of his/her professional practice. In addition, for the prescription to be valid, the practitioner must comply with any applicable State laws.

CMS

On March 18, President Trump announced additional guidelines for the use of telehealth during this national emergency. The Center for Medicare and Medicaid Services (CMS) published details of those [new guidelines](#), which include a notice that Medicare will pay for telehealth services provided to beneficiaries in any healthcare facility as well as in their homes. Additionally, the new guidelines highlight that for telehealth visits, “to the extent the 1135 waiver requires an established relationship, HHS will not conduct audits to ensure that such a prior relationship existed for claims submitted during this public health emergency.”

CMS released an accompanying [fact sheet with FAQs](#) answering several questions, including information on which providers are able to furnish telehealth services during the public health emergency (see Question #6) and on state Medicaid telehealth flexibility (see Question #19).

The U.S. Department of Health and Human Services Office for Civil Rights (OCR), which enforces certain HIPAA regulations, also issued a [notification](#) on how HIPAA requirements will be enforced during this Public Health Emergency. Specifically, it said the “OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency,” which is effective immediately.

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