



DEA Proposes Prescribing Rules Extending Certain Telehealth Flexibilities – With Limitations

February 27, 2023

Late Friday, the DEA issued two proposed rules to address telehealth prescribing after the Public Health Emergency (PHE) ends on May 11. There is a 30-day comment period. DEA describes the proposed rules as an extension of telehealth flexibilities with appropriate safeguards; many telehealth providers are disappointed with the proposals and the lobbying efforts to minimize the limitations will continue.

Click [here](#) for the press release

Click [here](#) for a one-page chart summarizing permissions post-PHE (a must read)

Click [here](#) for a 4-page summary for medical practitioners (a must read)

Click [here](#) for the 61-page proposed rule to address telehealth prescribing of controlled substances absent a prior in-patient examination. This is the rule required by the Ryan Haight Act of 2008.

Click [here](#) for the 61-page proposed rule for Audio-Only Telemedicine for Buprenorphine Initiation for Treatment of Opioid Use Disorder. This expands the circumstances whereby practitioners are authorized to prescribe Schedule III-V narcotic drugs to manage withdrawal treatment via telemedicine, including audio-only.

Note that the proposed rules do NOT affect telehealth consultations that do not involve the prescribing of controlled substances, nor do they affect telehealth consultations by a medical practitioner who has previously conducted at least one in-person medical examination of the patient. For patient-provider relationships that were established during the PHE, the proposed rule provides a 180-day grace period, whereby the provider may still prescribe controlled medications, but with additional recording-keeping requirements. To continue prescribing a controlled medication to this patient beyond 180 days from the end of the PHE, there must be an in-person medical evaluation.

Please let us know if you would like assistance in preparing comments.

For additional information, please contact our General Counsel Diane Turpin at diane.turpin@shcare.net or 202-578-5444. This information is offered for the general education and knowledge of our clients. It is not offered as legal advice.