

# TELEHEALTH 201: Prescribing



Center for Connected  
Health Policy

THE NATIONAL  
TELEHEALTH POLICY  
RESOURCE CENTER



## CENTER FOR CONNECTED HEALTH POLICY (CCHP)

Mei Wa Kwong, JD,  
*Executive Director, CCHP*

is a non-profit, non-partisan organization that seeks to advance state and national telehealth policy to promote improvements in health systems and greater health equity.

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- **Always consult with legal counsel.**
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# TELEHEALTH & PRESCRIBING

- **Prescribing via telehealth is controlled by two jurisdictions**
  - **Federal law – Controlled Substances**
  - **State laws – Everything else**
    - **Also controls establishment of patient-provider relationship**
    - **It is the law of the state the patient is located in that controls**
  - **However, if you are providing services into another state, there may be regulations or laws in your own state that could impact those services such as abiding by certain standards of your licensing board**



# FEDERAL LAW

## ➤ Ryan Haight Act

- The section in federal law that applies to telehealth prescribing controlled substances was placed in there by the Ryan Haight Act
- It limits to several specific scenarios in which telehealth can be used to prescribe a controlled substance if the telehealth provider has never examined the patient in-person.
- Patient must be in a DEA-registered hospital or clinic during the telehealth interaction;
- Patient is being treated by and in the presence of a DEA-registered practitioner during the telehealth interaction;
- Telehealth practitioner is an employee or contractor with Indian Health Services or working for a tribe or tribal organization under its contract/compact with IHS
- On a special DEA Registry \*
- During a Public Health Emergency

*\* As of October 2021, DEA Registry has not been created.*



# STATE LAWS

## ➤ **Establishing Patient-Provider Relationship**

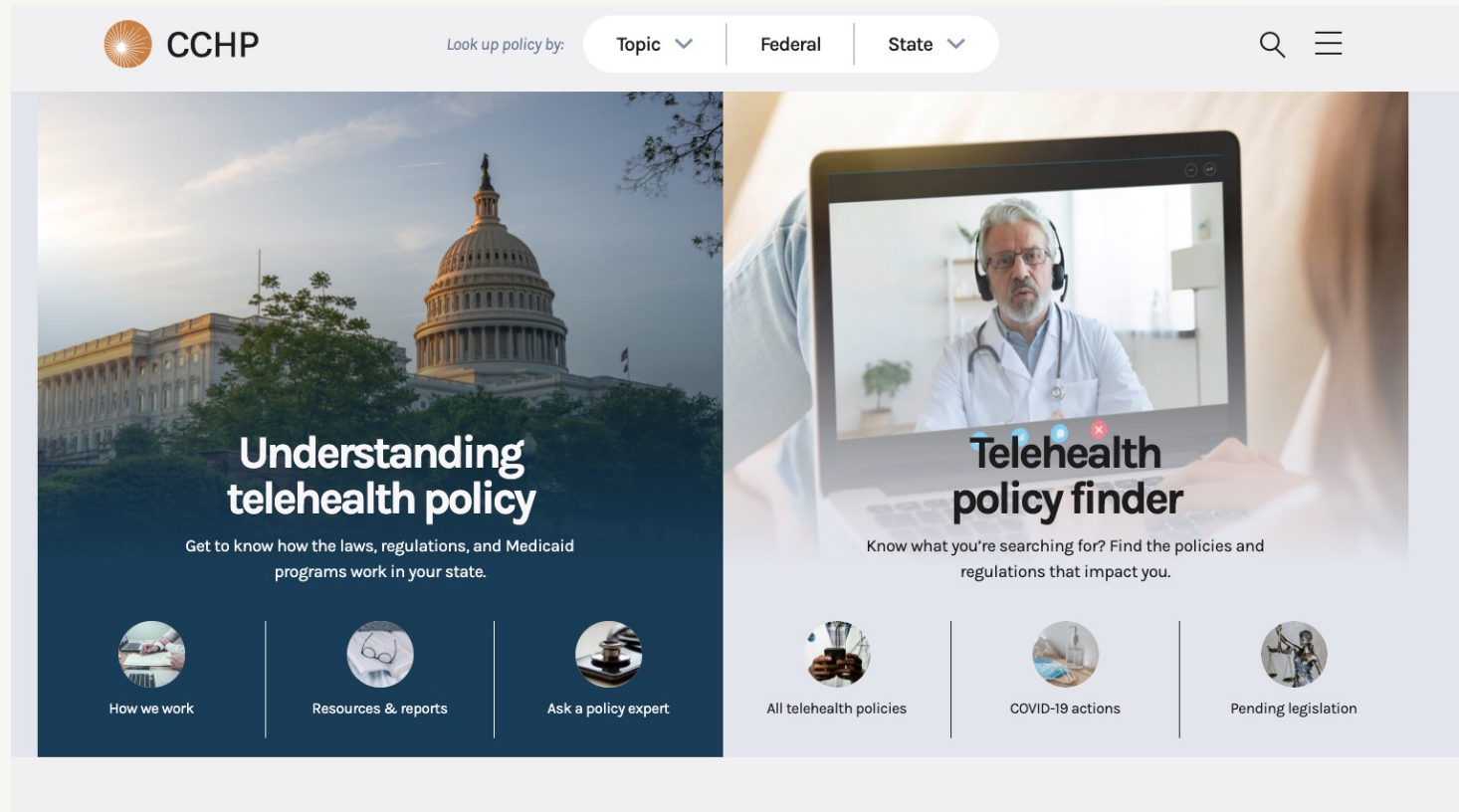
Many states have laws describing how a patient-provider relationship is established which is a necessary element to writing a prescription. Most will allow the use of telehealth to establish that relationship, but mainly through live video. Some will allow asynchronous to be used, but this is rarer.

## ➤ **Prescribing Limitations**

Most states will explicitly state that other applicable federal and state laws and regulations will apply to prescribing which means the Ryan Haight Act is still in effect. Some may have specific limitations beyond controlled substances on what can be prescribed using telehealth. For example, abortion inducing drugs.



## ➤ CCHP Website – [cchpca.org](http://cchpca.org)



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**Thank You!**

[www.cchpca.org](http://www.cchpca.org)

[info@cchpca.org](mailto:info@cchpca.org)

