DEA Proposed Regulations

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CENTER FOR CONNECTED HEALTH POLICY (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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• CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.
DEA proposed two new rules

- Expansion of induction of buprenorphine via telemedicine encounter
- Telemedicine prescribing of controlled substances when the practitioner and patient have not had a prior in-person medical evaluation

Published in Federal Register March 1, 2023

30 Day comment period

Another limited option in using telehealth to prescribe & what to do after the PHE
As for March 2023, these are **proposed** rules for prescribing controlled substances post-PHE. These rules are not yet finalized.

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<tr>
<th><strong>WHAT IS CURRENT LAW</strong></th>
<th><strong>WHAT THE PROPOSAL WILL DO</strong></th>
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<tbody>
<tr>
<td>Under current federal law, seven exceptions exist that allow the use of telehealth to prescribe a controlled substance without an in-person evaluation taking place first. These exceptions are:</td>
<td>Relying on #7, the DEA proposes to create other narrow exceptions which are:</td>
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<tr>
<td>1. Treatment in a DEA-registered hospital or clinic</td>
<td>• A DEA-registered practitioner may prescribe a 30 day supply of non-narcotic Schedule III-V medication without an in-person evaluation OR meeting one of the 6 exceptions listed in current law OR if it was a VA practitioner prescribing.</td>
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<td>2. Treatment in physical presence of a DEA registered practitioner</td>
<td>• In order to continue to prescribe to that patient, the telehealth provider must either have completed an in-person evaluation of the patient, meet one of the six exceptions in current law, OR have a qualified telemedicine referral.</td>
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<td>3. Treatment by Indian Health Services or Tribal practitioners</td>
<td>• A qualified telemedicine referral is where a DEA-registered provider has an in-person evaluation with the patient and sends in their referral to the telehealth provider all of the information all necessary information regarding the patient, the exam, etc. Look at it as an asynchronous option to existing exceptions.</td>
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<td>4. Treatment by a practitioner who is on a special registry (not created yet)</td>
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<td>5. During a public health emergency</td>
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<td>6. Treatment by a VA practitioner during a medical emergency</td>
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<td>7. Other circumstances specified by HHS &amp; DEA</td>
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There is nothing in current law or regulations stating what happens to relationships formed entirely in a PHE and no in-person visit has taken place. DEA proposes to address this by providing 180 day grace period to practitioners to meet this requirement by either completing an in-person evaluation, meeting one of the six exceptions in current law OR having a qualified telemedicine referral.
### DEA – PROPOSED RULES FOR PRESCRIBING

#### What else do these proposed rules do?

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| An exception is created for buprenorphine being prescribed for treatment of OUD (Keep in mind that the previous proposal discussed was ONLY for non-narcotic Schedule III-V drugs). | • A DEA-registered practitioner may prescribe a 30 day supply without an in-person evaluation OR meeting one of the 6 exceptions listed in current law.  
• In order to continue to prescribe to that patient, the telehealth provider must either have completed an in-person evaluation of the patient, meet one of the six exceptions in current law, OR have a qualified telemedicine referral.  
• A qualified telemedicine referral is where a DEA-registered provider has an in-person evaluation with the patient and sends in their referral to the telehealth provider all of the information all necessary information regarding the patient, the exam, etc. Look at it as an asynchronous option to existing exceptions. |

Current law does not contain specificity on documentation or additional conditions a prescribing telehealth provider needs to meet. | DEA proposes to address require:  
• Review of the Prescription Drug Monitoring Program Data  
• Certain record keeping requirements |
You have until the end of the month to get in public comments

We expect something to be finalized before May 11, 2023

Prescribing using Telemedicine -

Prescribing of Buprenorphine after the PHE -
CCHP Website – cchpca.org

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