

Requirements on Telehealth Prescriptions Eased for COVID-19

The Drug Enforcement Administration (“DEA”) has waived the in-person examination requirement for prescribing controlled substances via telemedicine in the wake of COVID-19, relaxing the prescribing requirements under the Controlled Substances Act (21 U.S.C. 829), as amended by the [Ryan Haight Online Pharmacy Consumer Protection Act of 2008](#). The DEA announced on its Diversion Control Division’s [COVID-19 Information webpage](#) that as of March 16, 2020, and continuing for as long as this Public Health Emergency remains in effect, DEA-registered prescribers may prescribe any schedule II-V controlled substance to patients, without initially completing an in-person medical examination, so long as the following three conditions are met:

1. The prescription is issued for a legitimate medical purpose by a prescriber acting in the usual course of his/her professional practice;
2. The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and
3. The prescriber is acting in accordance with applicable Federal and State laws.”

The prescriber may prescribe these medications via any prescribing means available (in accordance with DEA regulations), including electronically or by telephone.

Prescribers should be aware of any state-specific prohibitions on prescribing controlled drugs via telemedicine, as these restrictions may still apply. Prescribers should also be on the lookout for their state to announce similar public emergency exemptions.

For information regarding other exemptions affecting telehealth providers during COVID-19, see: [New Flexibility for Telehealth: Waiving Cost-Sharing Obligations and Using Audio/Video Communications](#).

If we can be of assistance and to discuss various options and specific situations, please feel free to contact the Buchalter Healthcare Attorney below.



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