



Health Care Law Update

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Proposed DEA Regulations Would Allow Remote Prescribing of Controlled Substances

On January 16, the Drug Enforcement Administration (DEA) [announced a notice of proposed rulemaking](#) to establish special registrations that would allow physicians and mid-level practitioners (“Clinician Practitioners”) to prescribe controlled substances through telemedicine visits without an in-person medical evaluation when there is a legitimate need. For example, Clinician Practitioners could have a legitimate need for a special registration when their patients face significant challenges that would make in-person medical evaluations difficult or unadvisable, such as severe weather conditions, living in remote or distant areas, or having communicable diseases.

DEA regulations currently require that a prescriber have at least one in-person medical evaluation with an individual before prescribing controlled substances via telemedicine, which has limited clinicians’ ability to prescribe controlled substances remotely.¹

Additionally, recognizing the proliferation in recent years of direct-to-consumer telemedicine platforms that facilitate the prescribing and fulfillment of prescription medications, the DEA proposed a registration for online telemedicine platforms that have proven a legitimate need for a special registration and where the DEA has concluded that such registration is consistent with the public interest. Telemedicine platforms covered by the proposed rules are entities that facilitate connections between patients and clinician practitioners via an audio-video telecommunications system for the diagnosis and treatment of patients that may result in the prescription of controlled substances.

The special telemedicine registrations proposed by the DEA include:

- A Telemedicine Prescribing Registration authorizing qualified clinicians to prescribe Schedule III-V controlled substances via telemedicine
- An Advanced Telemedicine Prescribing Registration authorizing qualified specialized clinicians, such as psychiatrists, hospice and palliative care physicians, pediatricians, neurologists, and board-certified mid-level practitioners, to prescribe Schedule II-V controlled substances via telemedicine
- A Telemedicine Platform Registration authorizing covered online telemedicine platforms, in their capacity as platform practitioners, to dispense Schedule II-V controlled substances

The DEA would also require each of these registrants (“Special Registrants”) to maintain a State Telemedicine Registration, issued by the DEA, for every state in which a patient is treated by the Special Registrants. Special Registrants would also be required to prescribe controlled substances electronically, and to conduct a prescription drug monitoring program check of the state where the patient is located and the state where the Special Registrant is located.

Note that the proposed rules only apply to the limited circumstance where a clinician intends to prescribe a controlled substance and has never conducted an in-person medical evaluation of the patient prior to issuing the prescription. The proposed rules would not apply to clinician-patient relationships in which the patient has received a prior in-person medical evaluation from the clinician.

FOR MORE INFORMATION

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¹ DEA flexibilities during the COVID-19 pandemic that continue through December 31, 2025, allow clinicians to prescribe controlled substances remotely without a prior in-person consultation.