DEA Proposes Permanent Rules for Prescribing Via Telemedicine



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The Drug Enforcement Administration (DEA) recently announced that it is proposing rules that will make permanent certain regulations that were enacted in response to the COVID pandemic allowing providers certain flexibilities in prescribing controlled substances via telehealth, which are set to expire when the COVID-19 public health emergency ends in May of this year. The new regulations also include certain safeguards to prevent abuse. Along with the proposed rules, the DEA also issued a chart to help practitioners determine when a telemedicine prescription is appropriate, a list of some common controlled substances, and an illustration of various telemedicine consultation scenarios. The proposed rules would not affect telemedicine consultations that do not involve prescribing controlled medications or where the practitioner has previously conducted an in-person examination of the patient.

Under the proposed rules, telehealth providers would no longer be able to prescribe Schedule II controlled substances (which include Adderall, oxycodone, Ritalin, and Vicodin) or most Schedule III-V narcotics without an in-person evaluation. The new rules would allow practitioners to prescribe up to a 30-day supply of buprenorphine and non-narcotic Schedule III-V drugs

(which include Ambien, Valium, Xanax, and ketamine) through telemedicine without the initial in-person visit. An in-person visit would be required for a patient to get refills beyond the initial 30-day supply. If a patient had an initial in-person exam with a practitioner who subsequently referred the patient to a second practitioner, the second practitioner may conduct a telemedicine exam of the patient and prescribe a controlled substance without personally conducting an in-person exam so long as both practitioners are DEA registered. If a telemedicine relationship was established and the patient has already been receiving prescriptions by telemedicine during the COVID-19 public health emergency, the DEA will extend the in-person exam waiver for an additional 180 days. The rule also proposes additional record-keeping requirements and other safeguards.

Click here to read the entire March 2023 Healthcare Law Update

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