



Every day we hear from our insureds on the Risk Management Hotline, and we will be sharing some of those questions and answers with you.

**Our Risk Management Team is here** to help you minimize and mitigate Medical Professional Liability risk.



## Telemedicine and Prescribing During a National Health Emergency

**Q:** *In response to the Coronavirus crisis, we are implementing telephone visits and telemedicine technology. Can we refill prescriptions for controlled substances, such as medications for attention deficit disorder or anxiety and chronic pain medication, without seeing the patient?*

**A:** The medical board rules in most states require a physical or medical examination before prescribing a medication or device; however, most boards also have rules related to telemedicine or telehealth and prescribing. Check the rules of your state board of medicine before you prescribe for a patient without seeing them.

The federal Controlled Substances Act requires an in-person medical evaluation prior to prescribing a controlled substance. However, the Controlled Substances Act includes an exception that is currently applicable, the declaration of a public health emergency by the Secretary of Health and Human Services. The Secretary declared an emergency January 31, 2020, and on March 16, 2020, designated the telemedicine prescribing allowance applies to Schedule II-V controlled substances. While the public health emergency remains in effect, physicians and other prescribers registered with the Drug Enforcement Agency may prescribe Schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, if the following conditions are met:

1. The prescription is issued for a legitimate medical purpose by a physician or other practitioner acting in the usual course of professional practice
2. The telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system
3. The physician or other practitioner is acting in accordance with applicable state and federal laws

The exception and conditions do not allow the use of telephone (audio only) visits when prescribing controlled substances. Physicians and other prescribers will need to implement a non-public facing chat application such as Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype.

If the physician or other prescriber has previously conducted an in-person medical evaluation of the patient, the physician or other prescriber may issue a prescription for a controlled substance after communication with the patient by telemedicine or other means regardless of whether a public health emergency has been declared and as long as the prescription is issued for a legitimate medical purpose, the physician or other prescriber is acting in the usual course of his/her professional practice, and the physician or other prescriber is acting in accordance with applicable Federal and State laws.

The Governor of Arizona issued Executive Order 2020-15 on March 25, 2020 waiving the requirement of a physical examination before prescribing. The Order states: No Arizona regulatory board shall enforce any statute, rule, or regulation that would require a medical professional who is licensed by that board and who is authorized to write prescriptions to conduct an in-person examination of a patient prior to the issuance of a prescription. The Order expires upon the termination of the Governor's declaration of a public health emergency issued March 11, 2020. See [https://azgovernor.gov/sites/default/files/eo\\_2020-15\\_expansion\\_of\\_telemedicine\\_0.pdf](https://azgovernor.gov/sites/default/files/eo_2020-15_expansion_of_telemedicine_0.pdf). The conditions of the federal waiver related to Schedule II-V substances are still in effect.

Customer Service 877.215.MICA (6422)

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