How to Prescribe Controlled Substances to Patients During the COVID-19 Public Health Emergency

In response to the COVID-19 public health emergency declared by the Secretary of Health and Human Services, the Drug Enforcement Administration (DEA) has adopted policies to allow DEA-registered practitioners to prescribe controlled substances without having to interact in-person with their patients. This chart only addresses prescribing controlled substances and does not address administering or direct dispensing of controlled substances, including by narcotic treatment programs (OTPs) or hospitals. These policies are effective beginning March 31, 2020, and will remain in effect for the duration of the public health emergency, unless DEA specifies an earlier date.

This decision tree merely summarizes the policies for quick reference and does not provide a complete description of all requirements. Full details are on DEA’s COVID-19 website (https://www.deadiversion.usdoj.gov/coronavirus.html), and codified in relevant law and regulations.

Under federal law, all controlled substance prescriptions must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his/her professional practice. 21 CFR 1306.04(a). In all circumstances when prescribing a controlled substance, including those summarized below, the practitioner must use his/her sound judgment to determine that s/he has sufficient information to conclude that the issuance of the prescription is for a bona fide medical purpose. Practitioners must also comply with applicable state law.

Part I: Evaluating the Patient

Has the prescriber previously examined the patient in person?

- Yes
  - Practitioner may conduct any needed follow-up evaluation by any method: in person, telemedicine, telephone, email, etc.

- No
  - Practitioner must first evaluate the patient in the steps described in the following boxes prior to issuing Rx for CS

Is the prescription for buprenorphine* for maintenance or detoxification treatment of an opioid use disorder?

- Yes
  - Prescribing practitioner must be DATA-waived
  - Evaluate patient in one of the following ways: in person; by questioning the patient over the telephone; or via telemedicine using a real-time, two-way, audio-visual communications device
  - Issue any needed Rx directly to patient or to pharmacy by method in Part II

- No
  - Evaluate patient in one of the following ways: in person, or via telemedicine using a real-time, two-way, audio-visual communications device
  - Issue any needed Rx directly to patient or to pharmacy by method in Part II

Part II: Delivering the Rx to the Pharmacy

Can the prescriber currently deliver a written Rx to the patient or pharmacy, or prescribe via EPCS?

- Yes
  - Deliver written Rx to patient or pharmacy, or prescribe via EPCS
  - Prescriber may call in Rx in an emergency situation as defined in 21 CFR 290.10 (follow next 3 questions)

- No
  - Is the drug to be prescribed in C. II or C. III-V?
    - Yes
      - Call in Rx
    - No
      - C. II
      - Is immediate administration of the C. II CS necessary for the proper treatment of the patient?
        - Yes
          - Is any appropriate alternative treatment available, including non-CS treatment?
            - Yes
              - Is it reasonably possible for the prescribing practitioner to provide a written Rx to the pharmacy prior to dispensing?
                - Yes
                  - Confirm within 15 days by written Rx, EPCS, or scan or photograph of Rx
                - No
                  - Call in Rx
            - No
              - Call in Rx
        - No
          - C. III-V

Guidance documents, like this document, are not binding and lack the force and effect of law, unless expressly authorized by statute or expressly incorporated into a contract, grant, or cooperative agreement. Consistent with Executive Order 13891 and the Office of Management and Budget implementing memoranda, the Department will not cite, use, or rely on any guidance document that is not accessible through the Department’s guidance portal, or similar guidance portals for other Executive Branch departments and agencies, except to establish historical facts. To the extent any guidance document sets out voluntary standards (e.g., recommended practices), compliance with those standards is voluntary, and noncompliance will not result in enforcement action. Guidance documents may be rescinded or modified in the Department’s complete discretion, consistent with applicable laws.

List of abbreviations:
- C. – Schedule (e.g. C. II, C. III)
- CS – Controlled substance
- EPCS – Electronic prescriptions for controlled substances
- Rx – Prescription

*Methadone cannot be prescribed for maintenance or detoxification treatment and must be administered or dispensed directly to the patient for that purpose. 21 CFR 1306.07(a).