

## DEA AND HHS EXTEND COVID-19 TELEMEDICINE FLEXIBILITIES FOR CONTROLLED MEDICATIONS PRESCRIPTIONS AGAIN

On Tuesday, October 10, 2023, the Drug Enforcement Administration (“DEA”) and the Department of Health and Human Services (“HHS”) issued a **second temporary rule** (the “Second Temporary Rule”) extending the effective period for the COVID-19 Telemedicine Flexibilities for Prescription of Controlled Medications (“telemedicine flexibilities”). These telemedicine flexibilities were **previously extended by an earlier temporary rule** (the “First Temporary Rule”) following the end of the federal Public Health Emergency (the “PHE”).

Those closely following the DEA’s efforts to address telemedicine prescribing practices after the PHE will recall that the First Temporary Rule originally authorized the continued reliance on the telemedicine flexibilities until November 11, 2024, but only under those limited circumstances where a practitioner-patient telemedicine relationship had been established on or before November 11, 2023. Thus, the extension of these telemedicine flexibilities was not made available to any practitioner-patient relationships established after November 11, 2023. This Second Temporary Rule reverses that limitation, such that practitioners will now be permitted to continue relying on the telemedicine flexibilities for all patient encounters through **December 31, 2024**, regardless of whether the recipients of such telemedicine prescriptions are new or established patients.

The Second Temporary Rule extends the telemedicine flexibilities to allow the DEA and HHS sufficient time to thoroughly consider the multitude of public comments received in response to the **telemedicine prescribing proposed rules published earlier this year** and during last month’s **Telemedicine Listening Sessions** as they work to finalize permanent telemedicine regulations. Those final regulations are expected to be promulgated by the fall of 2024. Thus, this extension will also give practitioners and patients time to plan for and adapt to those new rules once issued.

For more information regarding the DEA and HHS proposed rules or other considerations related to telehealth prescriptions, please contact:

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