

# DEA Again Extends Flexibilities for Prescription of Controlled Medications

## Regulatory Update:

### One More Lifeline for Telemedicine:

#### DEA Again Extends Flexibilities for Prescription of Controlled Medications

The COVID-19 pandemic posed unprecedented challenges to the health care system, especially for patients who rely on controlled medications for their treatment. In response, the Drug Enforcement Administration (DEA) issued [several waivers](#) and temporary rules to facilitate the practice of telemedicine and allow for the prescription of controlled medications via online platforms. The most recent extension, announced on [October 6, 2023](#), prolongs these flexibilities until **December 31, 2024**, providing telemedicine providers a longer runway and more time to develop competitive strategies befitting the post-pandemic healthcare economy.

#### Overview

The DEA's most recent action—its second temporary rule—extends provisions that were originally established in [March 2020](#). This rule is applicable to all DEA-registered medical professionals authorized to prescribe controlled substances listed in schedules II-V. It includes key allowances, such as the ability to prescribe buprenorphine for opioid use disorder via telephone consultations. Additionally, the rule extends the waiver on state-specific DEA registrations, enabling practitioners to prescribe across state lines. The rule will stay in effect until the end of 2024.

#### Scope of Telemedicine Flexibilities

The DEA's second temporary rule extends the “full set” of telemedicine flexibilities for prescribing controlled substances. These flexibilities are detailed below:

**Telemedicine-Based Prescriptions:** This rule allows DEA-registered practitioners to issue prescriptions for controlled substances via telemedicine, without an initial in-person medical evaluation that would normally be required under the Ryan Height Act. Practitioners must adhere to certain criteria, such as:

- Utilizing secure, real-time audio-visual communication technology.
- Ensuring compliance with applicable federal and state laws.
- Confirming the patient's identity and location.

The extension of controlled substance prescribing via telemedicine until December 2024 is a significant extension. As evidenced by U.S. Department of Justice investigations of telemedicine providers who expanded access to ADHD medications, providers taking advantage of this opportunity still need to protect themselves by adhering to standard of care for diagnosing, prescribing, and documenting these encounters.

**Interstate Prescriptions:** Medical professionals with at least one valid DEA registration are now authorized to prescribe controlled substances to patients residing in states where they are not registered. However, they must comply with the federal and state laws governing both the prescribing and patient's states.

**Buprenorphine Prescriptions for Opioid Use Disorder:** Practitioners holding a waiver under the Drug Addiction Treatment Act of 2000 ([DATA 2000](#)) can start or renew buprenorphine treatments for patients with opioid use disorders via telephone consultations. To avail of this flexibility, the practitioner must meet the following conditions:

- Possess a valid DEA registration.



- Have authorization to treat up to 100 patients under DATA 2000.
- Document the telephonic evaluation in the patient's medical record.
- Grace Period for New Registrations: For practitioners who are either relocating or expanding their practice during the ongoing public health crisis, the rule extends a grace period allowing them to continue using their existing DEA registration. This is valid until their new registration is approved or until December 31, 2024, whichever comes first.

By extending the “full set” of telemedicine flexibilities, the DEA has granted healthcare providers greater operational freedom, ensuring the secure and lawful delivery of essential services. Although permanent telemedicine flexibilities would anchor industry stability, the DEA is constrained by Congress's legislative deadlock, often leaning towards temporary solutions. Rather than contending with an ever-evolving environment based on fleeting waivers, a fixed legislative approach would grant the telemedicine sector the consistency vital for sustained growth. Meanwhile, the industry will have no choice but to closely follow DEA's updates and recommendations, adjusting their strategies and operations in response.

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