



October 8, 2020

WAIVER OF IN-PERSON EXAMINATION REQUIREMENT UNDER RYAN HAIGHT ACT STILL IN PLACE

Some members have expressed concerns that the U.S. Drug Enforcement Administration (DEA) may be discontinuing its current waiver of the requirement to conduct an initial, in-person examination of a patient before prescribing a controlled substance. As you may be aware, in response to the COVID-19 pandemic, on March 17, 2020, the DEA suspended the in-person exam requirement for the duration of the public health emergency. (The federal public health emergency declaration is currently in effect through October 23, 2020, and we anticipate that it will be extended for at least another 90 days.)

These concerns have arisen following last week's release of a DEA Final Rule entitled "Implementation of the Ryan Haight Online Pharmacy Consumer Protection Act of 2008." This Final Rule takes effect on October 30, 2020, and was intended to finalize an Interim Final Rule published on April 6, 2009 and includes minor technical changes from the 2009 version. It is our current understanding that last week's Final Rule will have no impact on the DEA's current waiver of the requirement to conduct an initial, in-person examination prior to prescription of a controlled substance. There has been no indication that the current COVID-19 relaxations are being changed or reversed at this time. Until further notice and under the waiver currently in force, psychiatrists with a DEA registration may continue to prescribe controlled substances for patients even if they have not conducted an initial, in-person exam because they are treating patients solely via telemedicine during the pandemic.

If we are advised of any changes or clarifications to this information, we will notify our members as soon as possible.

For additional information, please see the website of the DEA Diversion Control Division. Click on <https://www.deadiversion.usdoj.gov/coronavirus.html> and scroll down to the Telemedicine heading. Also, please see the following link for a Decision Tree on How to Prescribe Controlled Substances to Patients During the COVID-19 Public Health Emergency: [deadiversion.usdoj.gov/GDP/\(DEA-DC-023\)\(DEA075\)Decision_Tree_\(Final\)_33120_2007.pdf#search=decision%20tree](https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-023)(DEA075)Decision_Tree_(Final)_33120_2007.pdf#search=decision%20tree).

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