

Drug Enforcement Administration
Diversion Control Division
Guidance Document

Title: Telemedicine

Question: I am registered with DEA in one state, but will be prescribing controlled substances to patients in another state via telemedicine in a manner permitted by the Ryan Haight Act. Will I need to hold a separate DEA registration in the state where my patients are located?

Answer: Yes (with certain limited exceptions, including an exception broadly applicable during the COVID-19 public health emergency). The Controlled Substances Act (CSA) generally requires practitioners prescribing controlled substances to patients in another state via telemedicine to be registered in those patients' state. The CSA does so in two distinct but partially overlapping ways.

First, unless subject to an exception, the CSA requires all practitioners to be registered in the state in which the patients to which they are prescribing controlled substances are located, regardless of whether the prescribing is taking place via telemedicine. The CSA provides that every person who dispenses, or who proposes to dispense, any controlled substance shall obtain from DEA a registration issued in accordance with DEA rules and regulations. *See* 21 U.S.C. 822(a)(2). Under the CSA, such dispensing includes prescribing and administering controlled substances. *Id.* 802(10). DEA may only register a person to dispense a controlled substance if that person is permitted to do so by the jurisdiction in which his or her patients are located. *See id.* 802(21), 823(f). Thus, unless an applicable exception applies, DEA regulations require a practitioner to obtain a separate DEA registration in each state in which a patient to whom he or she prescribes a controlled substance is located when the prescription is made, regardless of whether the prescription is made via telemedicine.

Second, in addition to this generally applicable registration requirement, the CSA also contains provisions (added by the Ryan Haight Act) expressly requiring a practitioner to be registered in the state in which the patient to whom he is prescribing is located when he or she is engaged in certain forms of telemedicine. Under the CSA, a prescription for a controlled substance issued by means of the Internet must generally be predicated on an in-person medical evaluation. *See id.* 829(e)(1). This requirement does not apply, however, when a practitioner is practicing telemedicine as defined by the CSA. The CSA's definition of the practice of telemedicine includes multiple different categories of telemedicine. And, for certain of these categories, the CSA specifically requires a practitioner of telemedicine to have a DEA registration in the state in which the patient is located. *See, e.g., id.* 802(54)(A)(ii)(III), (E), 831(h)(1)(B).

There are, however, certain limited exceptions to both the general and telemedicine-specific registration requirements. Most notably, DEA is permitted to waive practitioners' general registration requirements by regulation when consistent with the public health and safety, *id.* 822(d), and has done so for certain categories of practitioners. *See* 21 CFR 1301.23. The CSA also waives the telemedicine-specific requirement of registration in the patients' state for

telemedicine practitioners in these categories. *See* 21 U.S.C. 802(54)(A)(ii)(III)(a), 831(h)(1)(B)(i). Thus, practitioners in these registration-waived categories can prescribe controlled substances to patients in another state via telemedicine without being registered in that state.

Exceptions may also apply in certain other situations. In particular, during the COVID-19 public health emergency, DEA has granted a [temporary exception](#) to its regulations—Exception to Separate Registration Requirements Across State Lines (DEA067), issued March 25, 2020—to allow practitioners to prescribe controlled substances in states in which they are not registered if the practitioner is registered with DEA in at least one state and has permission under state law to practice using controlled substances in the state where the dispensing occurs. In other words, under this exception, a DEA-registered practitioner is not required to obtain additional registration(s) with DEA in the additional state(s) where the practitioner’s dispensing (including prescribing and administering) occurs if the practitioner is authorized to dispense controlled substances by both the state in which the practitioner is registered with DEA and the state in which the dispensing occurs. Practitioners may utilize this temporary exception via in-person prescribing or prescribing via telemedicine. *Id.* 802(54)(D). A practitioner using this exception must continue to comply with the laws and regulations of the state in which they are DEA-registered, and the laws and regulations of the state in which they are practicing, if different. DEA has granted this exception through the duration of the COVID-19 public health emergency as declared by the Secretary of Health and Human Services.

The CSA also authorizes the practice of telemedicine by a practitioner registered in any state during certain limited medical emergency situations requiring immediate intervention to avoid imminent and serious clinical consequences, such as further injury or death. *Id.* 802(54)(F).

Thus, practitioners generally must be registered with DEA in a patient’s state to prescribe controlled substances to that patient via telemedicine, but a number of exceptions to that requirement exist.

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