

Paradigm Labs is doing its part to support healthcare providers and their patients during the COVID-19 Public Health Emergency (COVID-19 PHE). To this end, Paradigm Labs has developed a drug testing platform that allows providers and patients to engage in oral fluid drug testing facilitated by a telemedicine “visit.”

The U.S. Drug Administration has activated the public health emergency provision of the Ryan Haight Act, thereby allowing DEA registrants to prescribe controlled substances without an in-person medical exam of the patient for the duration of COVID-19 PHE and subject to the additional requirements set forth below.

It is important to note that some states may adopt stricter controlled substance prescribing requirements during COVID-19 PHE, such as prohibiting the use of telemedicine to prescribe Schedule II controlled substances. **We encourage you to review your state materials and seek out legal counsel if you have questions about prescribing controlled substances via telemedicine in Georgia.**

DEA & TELEMEDICINE

The U.S. Drug Enforcement Administration, Office of Diversion Control (DEA) issued [guidance](#) permitting DEA-registered practitioners to prescribe controlled substances **without an in-person medical exam of the patient for the duration of the COVID-19 public health emergency**. To issue such prescriptions without an in-person exam, a DEA-registered practitioner must meet the following requirements:

- The prescription is for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;
- **The telemedicine communication with the patient is conducted using an audio-visual, real-time, two-way interactive communication system;** and
- The practitioner is acting in accordance with applicable Federal and State laws.

Practitioners may either (1) issue electronic prescriptions for Schedule II through V controlled substances, (2) call a pharmacy with an emergency prescription for a Schedule II controlled substance, or (3) call a pharmacy for any other prescription for a Schedule III-V controlled substance.

GEORGIA COMPOSITE MEDICAL BOARD, CONTROLLED SUBSTANCES AND TELEMEDICINE:

3/18/2020: The Georgia Composite Medical Board adopted an emergency rule change on 3/5/2020, concerning Chapter 360.3.07 (Practicing Through Electronic or Other Such Means). This rule change allows licensed prescribers to follow the HHS guidelines on telemedicine. **Provided the practitioner satisfies these requirements, the practitioner may issue the prescription using any of the methods of prescribing currently available and in the manner set forth in the DEA regulations.** Thus, the practitioner may issue a prescription either electronically (for schedules II-V) or by calling in an emergency schedule II prescription to the pharmacy, or by calling in a schedule III-V prescription to the pharmacy.

On March 17th, 2020, the U.S. Department of Health and Human Services announced that physicians may use Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype to provide telehealth services “without risk that [its Office for Civil Rights] might seek to impose a penalty for noncompliance with the HIPAA Rules related to the good faith provision of telehealth during the COVID-19 nationwide public health emergency.”

HHS is also stressing that public-facing applications like Facebook Live, Twitch, TikTok, and similar video communication applications **should not be used** to provide telehealth services. The update lists several vendors who offer HIPAA-compliant video communications products.

CRITICAL RESOURCES:

DEA Diversion: <https://deadiversion.usdoj.gov/coronavirus.html>, accessed 3/26/2020.

Georgia Composite Medical Board: <https://medicalboard.georgia.gov/>. And the Georgia Emergency Rule Adopted 3/5/2020, <http://rules.sos.ga.gov/GAC/360-3-.07>. The Georgia Pain Management Rule, <http://rules.sos.ga.gov/GAC/360-3-.06>.

CMS – COVID19 – Telemedicine: <https://www.cms.gov/files/document/03052020-medicare-covid-19-fact-sheet.pdf>

CDC – COVID19 – Healthcare Providers:

<https://www.cdc.gov/coronavirus/2019-nCoV/hcp/index.html>, accessed 3/26/2020.