Ohio Clarifies Appropriate Telemedicine Prescribing Guidelines

Tuesday, April 18, 2017

Capping months of debate between various stakeholders within the medical community, the State Medical Board of Ohio (Ohio Board) has approved regulations clarifying the expected standards of care for prescribing to patients through telemedicine technologies. O.A.C. 4731-11-09 became effective March 23, 2017.

Ohio law defines telemedicine as the practice of medicine through the use of any communication, including oral, written or electronic communication, by a physician located outside of this state. Pursuant to Ohio law, any practitioner, including physicians, podiatrists, nurse practitioners and physician assistants who treat a patient located in Ohio through telemedicine, must be licensed for full practice by the Ohio Board or possess a limited Ohio telemedicine certificate.

Under the Ohio Board’s new regulations, practitioners may issue a prescription for a non-controlled medication to a person whom the practitioner has never conducted a physical examination and who is located at a remote location so long as the following requirements are satisfied:

1. The practitioner must establish the patient’s identity and physical location;
2. The practitioner shall obtain the patient’s informed consent for treatment;
3. The practitioner shall request the patient’s consent to forward the medical record to the patient’s primary care or other appropriate health care provider, if applicable, or refer the patient to an appropriate health care provider or facility;
4. The practitioner shall complete a medical evaluation appropriate for the patient’s condition, which meets appropriate standards of care and may include portions of the evaluation having been conducted by other health care providers acting within their professional scope;
5. The practitioner shall establish or confirm a diagnosis and treatment plan, including documentation regarding the necessity for the utilization of any prescription drug;
6. The practitioner shall document the patient’s consent to treatment, pertinent history, evaluation, diagnosis, treatment plan, underlying conditions, contraindications and any referrals to appropriate health care providers, including primary care providers and healthcare facilities;
7. In accordance with the standards of care, the practitioner shall provide appropriate follow-up care or recommend follow-up care with the patient’s primary care provider or other appropriate health care provider or facility; and
8. The practitioner shall make a medical record of the visit available to the patient.

Additionally, controlled substances may be prescribed by a practitioner to a person for whom the practitioner has not performed a physical examination and who is located in a remote location, so long as the practitioner has met the steps outlined above for authorizing non-controlled substances and one of the following situations exists:

- The person is an “active patient” of a health care provider who is a colleague of the practitioner, and the
controlled substances are provided through an on-call or cross coverage arrangement between the health care providers. Note “active patient” means the practitioner conducted at least one in-person medical evaluation within the previous 24 months;

- The physician is the medical director, hospice physician or attending physician of a hospice, and the controlled substance is prescribed to a hospice-enrolled patient;

- The physician is the medical director or attending physician at a state-licensed institutional facility, and the controlled substance is prescribed to a facility inpatient or resident;

- The patient is in a hospital or clinic registered with the United States Drug Enforcement Administration (DEA) to provide controlled substances when treated by an Ohio licensed physician or other DEA-registered provider furnishing services in accordance with the current standards of practice;

- The patient is being treated by, and in the physical presence of, an Ohio-licensed physician or other DEA-registered provider and provides services in accordance with the current standards of practice; and

- The physician has received a special DEA registration to provide controlled substances in the particular situation.

The Ohio Board’s rules are consistent with changes seen in other states where the law allows for a relaxation of in-person examination requirements to facilitate expanded use of telemedicine. Even so, practitioners should be aware the standard of care must always be maintained regardless of the method with which treatment is provided to a patient.

© 2019 Dinsmore & Shohl LLP. All rights reserved.

**Source URL:** [https://www.natlawreview.com/article/ohio-clarifies-appropriate-telemedicine-prescribing-guidelines](https://www.natlawreview.com/article/ohio-clarifies-appropriate-telemedicine-prescribing-guidelines)