



Physicians Caring for Texans

March 31, 2023

Anne Milgram  
Administrator  
Drug Enforcement Administration  
Docket No. DEA-407  
DEA Federal Register Representative  
8701 Morrisette Drive  
Springfield, VA 2212

Submitted Via [Federal Register](#)

Dear Administrator Milgram,

The Texas Medical Association (TMA), which represents our more than 57,000 physician and medical student members, appreciates the opportunity to comment on the Drug Enforcement Administration's (DEA) proposed rule on Expansion of Induction of Buprenorphine via Telemedicine Encounter as posted to the [Federal Register](#) on March 1, 2023.

TMA appreciates that DEA proposes to expand the circumstances under which practitioners, in accordance with state prescribing laws, are authorized to prescribe schedule III, IV, or V narcotic drugs that are approved by the Food and Drug Administration (FDA), specifically for use in the maintenance or detoxification treatment of opioid use disorder via a telemedicine encounter. Currently, buprenorphine (schedule III) is the only schedule III-V narcotic drug currently approved by the FDA for such treatment.

Prescription Drug Monitoring Program (PDMP) review (FR 12895)

DEA proposes that a practitioner, in accordance with state prescribing laws, must review and consider a state's PDMP data prior to prescribing buprenorphine.

*TMA Response*

TMA agrees there should be controls in place when prescribing certain medications via a telemedicine visit. TMA also agrees the PDMP database should be consulted prior to prescribing a controlled substance. However, physicians should not be penalized if they are unable to check the PDMP. It should also be noted, a [recent study](#) shows states that have implemented a PDMP mandate decreased opioid prescriptions by 6.1%. The study went on to state the following:

However, despite the reduction in prescriptions, the policy did not reduce prescription opioid deaths. Perhaps more surprisingly, heroin-related deaths increased substantially – by 50.1% – following PDMP mandates. Since heroin is an illicit substitute for prescription opioids, our finding suggests that placing supply restrictions for prescription opioids may have led patients to seek out a more dangerous, illicit alternative unaffected by the PDMP policy change.

Requirement of medical evaluation in person or in presence of another DEA registrant within 30 days (FR 12895)

DEA proposes to require the patient receiving buprenorphine via a telemedicine visit to receive a medical evaluation by a DEA-registered prescriber in person within 30 days of being prescribed buprenorphine for the induction of opioid use disorder treatment in order to obtain an additional supply of buprenorphine.

*TMA Response*

While TMA supports offering this flexibility, we call on DEA to offer and allow a six-month supply of medications to patients who may not initially be able to access a referring practitioner within the 30-day timeframe. Allowing a six-month supply of medications gives additional time to schedule the physician exam.

Comprehensive recordkeeping (FR 12896)

DEA proposes requiring practitioners to maintain comprehensive records establishing the nature of the encounter, the patient's proffered reason for the audio-only encounter (if requested by the patient), and all efforts to comply with PDMP checks.

*TMA response*

TMA strongly agrees practitioners should maintain a complete medical record related to the patient's visit, whether in-person or via telemedicine. Physicians already have DEA-specific recordkeeping requirements when issuing controlled-substance prescriptions. The recordkeeping requirements and medical record documentation should be the same for in-person and virtual visits.

Additional Request for Comments

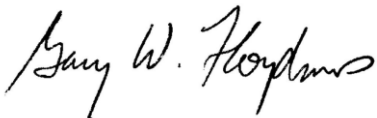
DEA invites comments on whether the Telemedicine Prescribing and Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation proposed rule should be combined with this rule when publishing the final rule as both documents refer to prescribing via telemedicine.

*TMA Response*

TMA believes the two proposed regulations, RIN 1117-AB40 and RIN 1117-AB78, are closely related and should be combined when publishing the final rule.

TMA appreciates the opportunity to comment on the proposal as DEA seeks to allow buprenorphine to be prescribed via a telemedicine visit to help treat patients with opioid use disorder. Any questions may be directed to Shannon Vogel, associate vice president of health information technology, by emailing [shannon.vogel@texmed.org](mailto:shannon.vogel@texmed.org) or calling (512) 370-1411.

Sincerely,



Gary W. Floyd, MD  
President  
Texas Medical Association