

# Issue brief: Reducing barriers to vital pain medication during the COVID-19 pandemic

## Introduction

One element of the COVID-19 pandemic that continues to unfold is how it may be compromising the ability of patients with pain to receive timely, comprehensive care. A variety of factors, including shelter-in-place recommendations, travel restrictions and greater use of telemedicine have made it necessary to ensure increased flexibility for patients with pain to obtain necessary medications and other treatments. Barriers for patients with pain have included existing requirements to see physicians in-person; screening; evaluation; and testing – among others. Restrictions on refills, overly restrictive telemedicine requirements and pharmacy chain policies also may be contributing to needless pain, delayed prescriptions and increased visits during the COVID-19 pandemic.

The AMA strongly urges legislators, regulators, governors and policymakers to remove additional barriers, during the COVID-19 pandemic, to help ensure that patients with pain have access to the treatments prescribed by their physician while remaining safe, reducing travel and unnecessary exposure to potential infection.

## Guidance

### *U.S. Drug Enforcement Administration*

The U.S. Drug Enforcement Administration (DEA) has issued several new provisions removing refill and prescribing barriers for patients with chronic pain. For example, in a March 20, [letter](#) to DEA-registered practitioners, the DEA issued guidance providing increased flexibility for refill and prescribing controlled substances for patients with chronic pain. These include authorizing a 90-day supply of Schedule II medications and providing increased flexibility for certain in-person evaluation and prescribing rules for existing patients. The DEA has also provided a decision tree entitled “[How to Prescribe Controlled Substances to Patients During the COVID-19 Public Health Emergency](#),” which provides further guidance.

### *Activity in the states*

Several states, including [Texas](#), [Indiana](#), [Ohio](#) and [Georgia](#), have increased prescribing flexibility for patients with pain. Specifically,

- The **Texas** Medical Board has issued an extended waiver that allows for telephone refill(s) of a valid prescription for treatment of chronic pain by a physician with an established chronic pain patient. The physician remains responsible for meeting the standard of care and all other laws and rules related to the practice of medicine. The standard of care must still be maintained related to the treatment of chronic pain patients.

- **Georgia, Indiana and Ohio** offer similar guidance, stating that a DEA-registered prescriber may issue prescriptions for all Schedule II-IV controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided: (1) the prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of their professional practice; (2) the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and (3) all other applicable federal and state laws are followed. (Georgia adds an additional requirement that “the practitioner conducted a medical evaluation on the patient using telemedicine communication”).

### **“Best practices” analysis**

Based on the above, the AMA encourages states interested in addressing barriers to refills and prescribing controlled substances for patients in pain during the pandemic to consider advocating for the adoption of the following language in-full:

- A. **Controlled substance prescription without in-person evaluation.** During the COVID-19 public health emergency in \_\_\_\_\_ (indicate name of state), DEA-registered physicians and other health care practitioners authorized to prescribe Schedule II-V prescriptions may issue prescriptions for controlled substances (Schedules II-V) to patients for whom they have not conducted an in-person medical evaluation, provided all of the following conditions are met:
  1. The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;
  2. The telemedicine communication is conducted by any needed follow-up method, including: in-person; telephone; email; audio-visual, real-time, two-way interactive communication system; and
  3. All other applicable federal and state laws are followed.
  
- B. **Direct issuance to pharmacy or patient permitted.** The physician or practitioner may issue a prescription for controlled substances (Schedules II-IV), directly to the patient or to the pharmacy by calling in the prescription to the pharmacy or by providing the patient with a written prescription.
  
- C. **Multiple prescriptions allowed.** A DEA-registered physician or practitioner may issue a prescription providing a patient with up to a 90-day supply for a controlled substance (Schedules II-V), subject to the following:
  1. The prescribing physician or practitioner must sign and date the multiple prescriptions as of the date issued; and
  2. The prescribing physician or practitioner must write on each separate prescription the earliest date on which the prescription can be filled.

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