

# DEA Extends COVID-19 Telemedicine Prescribing Flexibilities a Third Time

Article By:

Conor O. Duffy

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On November 15, 2024, the Drug Enforcement Administration (DEA) and the Department of Health & Human Services (HHS) jointly announced an extension of current COVID-era tele-prescribing flexibilities for another year – through December 31, 2025 – via a Third Temporary Rule. Accordingly, health care practitioners will continue to be allowed to establish relationships with patients involving the prescription of controlled substances via telemedicine, even if the practitioner has not conducted an in-person medical evaluation of the patient, through the end of 2025.

In the Third Temporary Rule, the DEA and HHS indicate that they continue to work on finalizing permanent tele-prescribing rules that appropriately balance public health and access issues with the potential diversion risks associated with telemedicine. The Second Temporary Rule (discussed below) had been scheduled to expire on December 31, 2024, and the agencies jointly determined it was necessary to issue another one-year extension to provide more time to finalize new regulations.

The DEA and HHS intend to provide for “a smooth transition for patients and practitioners that have come to rely on the availability of telemedicine for controlled medication prescriptions” by considering stakeholder input and giving practitioners and patients sufficient time to comply with the new regulations once they are finalized.

As a reminder for health care organizations and industry stakeholders, please find a summary of the prior temporary rules below:

- On February 24, 2023, the DEA issued a set of proposed rules (previously discussed [here](#)) to make certain “telemedicine flexibilities” established during the COVID-19 pandemic permanent prior to the scheduled end of the COVID-19 public health emergency on May 11, 2023. The proposed rules were more restrictive than the COVID-era telemedicine flexibilities and notably sought to end the tele-prescribing of certain narcotics without an in-person medical evaluation.
  - The DEA received over 38,000 comments on these proposals, with several opposing the sudden end of tele-prescribing flexibilities involving the prescription of certain controlled substances.
- On May 9, 2023, the DEA issued the First Temporary Rule (discussed [here](#)), extending all COVID-19 flexibilities for the prescription of controlled substances through November 11,

2023, and allowing practitioners to continue forming new relationships involving the prescription of controlled substances via telemedicine without requiring an in-person medical evaluation.

- The First Temporary Rule was issued in lieu of finalizing the previously proposed rules, and it also provided a one-year grace period allowing practitioner-patient relationships established as of November 11, 2023, to continue via telemedicine until November 11, 2024, before requiring an in-person visit to continue prescribing controlled substances via telemedicine.
- On October 10, 2023, the DEA issued a Second Temporary Rule (discussed [here](#)), waiving the grace period established by the First Temporary Rule and extending the period during which practitioner-patient relationships involving the prescription of controlled substances could be formed via telemedicine through December 31, 2024.
  - The Third Temporary Rule now further extends that period until December 31, 2025.

The text of the Third Temporary Rule is available [here](#), and will be published in the federal register on November 19, 2024.

*\*This post was co-authored by Paul Palma, legal intern at Robinson+Cole. Paul is not admitted to practice law.*

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