

Advisory on Prescribing During Declaration of Emergency

In response to the recent novel coronavirus (COVID-19) pandemic and subsequent declaration of State of Emergency by Governor Andy Beshear, the Board has received inquiries from licensees about prescribing controlled substances during this period. The Board would like to remind all of its licensees who are prescribing controlled medications (whether Schedule IIs, IIIs, IVs or Vs) of KRS 311.597(4) which calls upon licensees to conform with acceptable and prevailing medical practices and the provisions of 201 KAR 9:260 Section 2(2), which states

If a physician is unable to conform to professional standards for prescribing or dispensing controlled substances due to circumstances beyond the physician's control, or the physician makes a professional determination that it is not appropriate to comply with a specific standard, based upon the individual facts applicable to a specific patient's diagnosis and treatment, the physician shall document those circumstances in the patient's record and only prescribe or dispense a controlled substance to the patient if the patient record appropriately justifies the prescribing or dispensing of a controlled substance under the circumstances.

The standards of acceptable and prevailing medical practices that apply under normal circumstances may not apply in a state of emergency. During this time it is particularly important that licensees responsibly exercise their best clinical judgment on a case-by-case and patient-by-patient basis, balancing a variety of factors (including being mindful not to contribute to the ongoing opioid epidemic). When considering whether to have an in-person patient visit, licensees should ask themselves whether the service provided would be retrospectively deemed necessary if the patient were to become infected by COVID-19 as a result of the visit. Where possible, use of telehealth technologies should be considered in an effort to limit and contain the spread of COVID-19.

For instance, the current but temporary state of emergency may be a circumstance in which it would not be appropriate to require a patient to come in prior to refilling a prescription. The physician should consider whether the patient has a history of compliance with treatment directives; whether the patient is established and stable on the dose of medication. If it is a matter of refilling the same medication at the same dosage for an established patient, in order to avoid exposing the patient or others to the current environment, it may be appropriate to authorize a refill without an in-person visit.

For patients beginning treatment of opioid use disorder with buprenorphine, in order to avoid exposing the patient or others to the current environment, it may be appropriate to screen the patient using telehealth technologies in order to determine whether an in-person examination is warranted. In this state of emergency, telehealth may be a clinically sound approach for some patients and some conditions, but for others it may not. It is appropriate to use telehealth resources to help make such a determination on patient-by-patient basis.

The Board recognizes that the current state of emergency is a fluid environment requiring extraordinary effort, physical and mental, from many of its licensees. The Board understands the fine line of balancing treatment of individual patients with the protection of others and are grateful for its licensees' efforts to exercise sound judgment in unsound circumstances.

