

**BOARD OPINION
RELATING TO ONLINE/VIRTUAL
MEDICATION ASSISTED TREATMENT (MAT)**

LEGAL AUTHORITY

Pursuant to KRS 311.602, the Board renders the following opinion to assist Board licensees in determining what actions would constitute unacceptable conduct under the provisions of KRS 311.595. The Board has decided to publish this opinion because it addresses issues of significant public and medical interest.

This opinion is not a statute or administrative regulation and it does not independently have the force of law. However, a licensee may be found to be in violation of KRS 311.595(9) as illustrated by KRS 311.597(4), if he/she practices in contravention of this opinion.

OPINION

It has recently come to the Board's attention that a number of clinics and practitioners throughout Kentucky are attempting to offer medication assisted treatment ("MAT") for opioid use disorder ("OUD") via a 100% virtual (online) format. According to reports, some of these providers are offering 100% audio-only services, basing diagnoses and treatments on online questionnaires, and/or attempting to carry out drug monitoring protocols via mail-in urine samples or self-reported pill counts.

The advancements and continued development of medical and communications technology have had a profound impact on the practice of medicine. Such advancements include the use of a virtual clinic, also known as telemedicine or "telehealth" (i.e., the practice of medicine using electronic communication, information technology or other means of interaction between a licensee in one location and a patient in another location with or without an intervening healthcare provider). Technologic advancements in this area may offer some opportunities for improving the delivery and accessibility of health care in the area of MAT for OUD.

Telemedicine, as a substitute for, or in lieu of, the provision of in-person medical care is not appropriate in all circumstances. With regard to MAT for OUD, telemedicine has a role but is not appropriate for satisfying the standards of all components of a treatment program, particularly in regard to monitoring components.

OUD presents complex behavioral health and physical medicine issues regarding addiction. Precisely, by the mere act of seeking MAT for OUD, this patient population has acknowledged a loss of self-control and regulation over controlled substance use. Such patients are not in a position to reliably monitor themselves. Therefore, in an effort to protect these patients and the public, clinical circumstances require direct oversight and supervision of patient compliance during MAT for OUD. Therefore, it is the Board's opinion that:

Physicians using telemedicine technologies in the provision of medical services to patients must conduct all appropriate evaluations and treatments consistent with the same standards of acceptable and prevailing medical practice as an in-person encounter.

Telemedicine visits through real-time interactive audio and video technology can be an important modality for treating patients with OUD, including the initiation of MAT for OUD. KRS 311.597(1) states that “electronic, on-line or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient or for any follow-up evaluation.” Initial audio-only person-to-person telephone visits may be considered by physicians treating patients with OUD – especially during a global health pandemic or when real-time, interactive audio and video technology is not immediately available to the patient - provided that an appointment for an in-person medical evaluation or telemedicine evaluation through real-time interactive audio and video technology is scheduled to take place as soon as possible thereafter.

Some but not all components of MAT for OUD may be appropriately carried out via telemedicine technologies, including evaluation and counseling and behavioral modification components. For instance, the Board’s regulation requires that licensees prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone “shall implement a treatment plan that requires objective behavioral modification by the patient” which “shall include the patient’s participation in a behavioral modification program that may include counseling or a twelve (12) step facilitation.” 201 KAR 9:270 Section 2. Telemedicine may be an appropriate and effective means of facilitating such behavioral modification programs.

However, the use of telemedicine technologies to carry out monitoring components of treatment, such as through self-directed pills counts or unsupervised off-site drug screening methodologies, are wholly unreliable, and thus are inappropriate and counter to the intent of MAT for OUD. Any credible standards that would allow for monitoring components to be carried out solely via telemedicine technologies would be those set forth and adopted in the Substance Abuse and Mental Health Services Administration’s (SAMHSA’s) publication: *Medications for Opioid Use Disorder*. Treatment Improvement Protocol (TIP) Series 63. Publication No. PEP20-02-01-006. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2020.

The Board has previously determined – and continues to hold - that the *Model Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine*, adopted by the Federation of State Medical Boards in April 2014, constitutes the standards of acceptable and prevailing medical practice relating to the practice of medicine via telemedicine technologies. Physicians using telemedicine technologies in the provision of MAT for OUD must take

appropriate steps to practice consistent with standards of acceptable and prevailing medical practice set forth in 201 KAR 9:270.

(Adopted June 2021; published July 21, 2021; revised December 16, 2021.)