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Client Alert: Ohio Medical Board Takes Temporary Actions in Response to COVID-19

INDUSTRY SECTOR

Health Care

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Against the backdrop of the COVID-19 (Coronavirus) crisis, a special meeting of the Ohio Medical Board (OMB) was held on March 18, 2020 by teleconference and live-streaming, focused on addressing several physician matters. The following policies were adopted by the OMB.

TELEMEDICINE

First, the OMB temporarily suspended the requirement for an in-person visit required under its telemedicine rules. Retroactive to March 9, 2020, in-person visits are not required prior to prescribing, although providers must satisfy the standards of care provision in the regulations and document their use of telemedicine. The OMB action allows prescribing controlled substances without an in-person visit. The temporary suspension of enforcement actions due to the lack of an in-person visit will expire when Governor DeWine's emergency Executive Order ends.

The OMB's actions are consistent with the March 17, 2020 action taken by the U.S. Drug Enforcement Agency (DEA), which invoked emergency authority to permit prescribing of controlled substances without an in-person examination. However, the DEA continues to require that telecommunications be conducted by using an audio-visual, real-time, two-way, interactive communication system.

Similarly, on March 17, 2020 the Centers for Medicare and Medicaid issued guidance on Medicare reimbursement for care provided via telemedicine. Previously, Medicare allowed reimbursement for services provided to beneficiaries via telemedicine in limited circumstances. Retroactive to March 6, 2020, under authority granted by the Coronavirus Preparedness and Response Supplemental Appropriation Act, CMS exercised its authority to temporarily waive previous "eligible originating site" requirements and will reimburse services provided through telemedicine at the same rate as if the service was provided in-person. CMS will not enforce its established patient relationship standard for telemedicine services for the duration of the COVID-19 emergency. CMS took this action to reduce the need for at-risk beneficiaries to travel to a physician office or other health care facility to receive care. In FAQs issued by CMS, FaceTime and Skype were recognized as acceptable means to conduct telehealth services, which will allow beneficiaries to receive

care from home. [Click Here](#) for the list of Medicare covered telehealth services.

CONTINUING MEDICAL EDUCATION

Second, the OMB acted to suspend enforcement of Continuing Medical Education (CME) requirements, including 15 hours of required Category I education, for one year. The OMB took this action because physicians often obtain CME credits at seminars, which are now prohibited large group meetings. Because Ohio physician CME requirements have a statutory basis, the OMB is not able to waive the requirement, but rather has suspended enforcement. The OMB noted that CME credits can be earned online or through webinars and must be satisfied unless the Ohio General Assembly acts to revise the statutory requirements. Suspended enforcement will not apply to CMEs ordered pursuant to a consent agreement or other action taken against a disciplined physician.

EXPEDITED LICENSURE

Finally, the OMB authorized its staff to work with the State Emergency Management Agency to adopt processes to quickly license out of state physicians and physician assistants to respond to the COVID-19 emergency in Ohio.

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