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Client Alert: South Carolina Boards of Medical Examiners and Pharmacy Issue Joint Guidance Regarding COVID-19 Prescriptions

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The South Carolina Boards of Medical Examiners and Pharmacy have issued a joint guidance regarding the prescribing and dispensing of hydroxychloroquine, chloroquine, and azithromycin.

The joint guidance acknowledges the "early reports" that the combination of hydroxychloroquine or chloroquine combined with azithromycin has produced positive results in a "very small sample" of COVID-19 patients. These reports have resulted in many physicians prescribing the drugs to themselves and/or their families, as well as patients who request the drugs. The increased prescribing has resulted in significant shortages of the three drugs. Two of the drugs, hydroxychloroquine and chloroquine, are widely used for patients with autoimmune disease. The third, azithromycin, is one of the most commonly prescribed antibiotics, often used for bacterial respiratory infections, pneumonia, and certain gastrointestinal infections. All three of the drugs are reported to be on backorder, with no availability until mid-April, at the earliest.

The Boards opined that, if the drugs are determined by the FDA to be effective, their use should be restricted to patients with a confirmed COVID-19 infection. Further, the Boards recommended that the use of the drugs be limited to infected patients in an inpatient setting so that the treatment (and side effects therefrom) can be appropriately monitored. The Board warned physicians that prescribing the drugs without a proper clinical justification could result in disciplinary action under South Carolina Code Section 40-27-113(A) (defining "unprofessional conduct"). The Boards also reminded physicians that "irresponsible prescribing" could prevent COVID-19 positive patients from receiving treatment should the drugs "be determined to be effective in treating the condition."

Finally, the Boards advised pharmacists to use their "professional judgment" in determining whether to fill prescriptions for the drugs. In making a decision of whether to fill or not, the Boards recommended

pharmacists "consider the needs of patients previously prescribed" the drugs for conditions for which they have been approved by the FDA (or for conditions for which the drugs have traditionally been used off-label). Finally, the Boards encouraged pharmacists to consider the supply of the drugs as well as "additional data regarding their effectiveness in the treatment of COVID-19" when examining prescriptions.

The joint guidance remains effective until further order.

Please do not hesitate to contact Laura Johnson Evans at levans@shumaker.com or 843.996.1913 if you have questions.

For the most up-to-date legal and legislative information related to the coronavirus pandemic, please visit our Shumaker COVID-19 Client Resource Center at shumaker.com. We have also established a 24/7 Legal & Legislative Helpline at 1.800.427.1493 monitored by Shumaker lawyers around the clock.

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