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Press Release

For Immediate Release:
August 11, 2020

For Further Information Contact:
Lisa Coryell 609-292-4791

Office of The Attorney General (http://www.nj.gov/oag/)
Gurbir S. Grewal, *Attorney General*

Division of Consumer Affairs (http://www.njconsumeraffairs.gov/)
Paul R. Rodríguez, *Acting Director*

Division of Consumer Affairs Expands Access to Telemedicine Services, Including for Those Suffering from Chronic Pain and Those Who Qualify for Medical Marijuana

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View Order (http://www.nj.gov/oag/newsreleases20/AO-Telemedicine-Prescribing.pdf)

NEWARK – As part of the State's efforts to increase access to telehealth services to the greatest extent possible during the COVID-19 pandemic, the Division of Consumer Affairs today announced regulatory action to expand the availability of telemedicine for the treatment of patients, including those with chronic pain and those qualifying for medical marijuana.

An Administrative Order signed today by the Acting Director of the Division temporarily waives certain regulatory requirements for in-person medical evaluations when providers prescribe controlled dangerous substances ("CDS") in the treatment of chronic pain or authorize medical marijuana. It is effective immediately.

The action is the latest the Division has taken in response to Governor Phil Murphy's directive to identify opportunities to support broader access to telehealth and telemedicine in order to reduce the spread of COVID-19, and is authorized by legislation signed by Governor Murphy on March 20, 2020.

"New Jersey health care practices are again offering in-person services, but telehealth remains an important option for patients and providers," said Attorney General Gurbir S. Grewal. "Today, we are making it easier for patients to choose telehealth services for any reason, including to avoid an in-person visit due to the continuing risk of COVID-19. Doctors who use telemedicine to prescribe CDS or authorize medical marijuana will be held to the same professional standards as for in-person visits and must comply with all of the important safeguards we have adopted to prevent diversion and misuse."

Specifically, the Order allows health care professionals to utilize a telemedicine encounter to satisfy existing requirements for a physical examination of the patient before authorizing medical marijuana or when prescribing, dispensing, or administering CDS.

The Order is consistent with guidance from the federal Drug Enforcement Agency ("DEA"). The DEA has issued a temporary waiver that allows a practitioner to prescribe a Schedule II CDS through telemedicine without an initial in-person examination, so long as the prescription is issued for a legitimate medical purpose; the communications are conducted using a real-time, audio-visual, two-way interactive system; and the telemedicine encounter is consistent with the standard of care.

Under state law, health care professionals remain obligated to discuss the risks and benefits of opioid medications and alternatives, to check the Prescription Monitoring Program, and to adhere to the five-day limit for the treatment of acute pain and the need to tailor subsequent prescribing to the patient's actual needs.

"This action temporarily removes barriers to providing patients with the medications they need to treat chronic pain and other diseases during the COVID-19 crisis," said Paul R. Rodríguez, Acting Director of the Division of Consumer Affairs. "This will ensure that those in need of vital prescriptions are able to get them, without unnecessarily putting themselves, fellow patients, and their healthcare providers at risk of exposure to COVID-19."

The Order further allows health care professionals to use telemedicine encounters to conduct patient assessments and treatment plan reviews when continuously prescribing CDS for the management of chronic pain. Health care professionals remain obligated to document the results of patient assessments and treatment plan reviews in the patient record.

Finally, the Order also allows physicians to use telemedicine encounters to satisfy regulatory requirements for the issuance of a certification for the use of medical marijuana. Physicians may utilize telemedicine to conduct a comprehensive medical history and an evaluation, as appropriate, to make a diagnosis and manage the treatment of a

qualifying condition, as long as the telemedicine encounter is conducted using an audio-visual, real-time, two-way interactive communication system, and is consistent with the standard of care.

A subsequent authorization for medical marijuana may also be provided via telemedicine if the physician determines that an in-person visit is not required, consistent with the standard of care.

The Order will remain in effect, unless expressly revoked or superseded by a subsequent Administrative Order issued by the Director of the Division of Consumer Affairs, until whichever of the following occurs first: (1) the end of the state of emergency or public health emergency declared by the Governor in Executive Order 103, whichever is later; or (2) the end of the telemedicine allowance designated by the United States Secretary of Health and Human Services on March 16, 2020, based upon the public health emergency declared by the Secretary on January 31, 2020.

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The mission of the Division of Consumer Affairs, within the Department of Law and Public Safety, is to protect the public from fraud, deceit, misrepresentation and professional misconduct in the sale of goods and services in New Jersey through education, advocacy, regulation and enforcement. The Division pursues its mission through its 51 professional and occupational boards that oversee 720,000 licensees in the state, its Regulated Business section that oversees 60,000 NJ registered businesses, as well as its Office of Consumer Protection, Bureau of Securities, Charities Registration section, Office of Weights and Measures, and Legalized Games of Chance section.

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